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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1997

Addendum

Netherlands*

[19 March 1997]

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* This document contains the tenth, eleventh, twelfth and thirteenth periodic reports, submitted in one document, due on 9 January 1991, 1993, 1995 and 1997, respectively. For the ninth periodic report of the Netherlands and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/184/Add.4 and 6 and CERD/C/SR.872-873.

The annexes to the report submitted by the Government of the Netherlands may be consulted in the Secretariat's files.

The information submitted by the Netherlands in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic documents HRI/CORE/1/Add.66 and HRI/CORE/1/Add.67.

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Introduction

1. In pursuance of article 9 of the Convention on the Elimination of All Forms of Racial Discrimination, the present report by the Kingdom of the Netherlands is submitted in accordance with the general guidelines adopted by the Committee on 9 April 1980, as revised at the 984th meeting on 19 March 1993 (CERD/C/70/Rev.3). The report comprises the tenth, eleventh, twelfth periodic reports by the Netherlands, the tenth, eleventh and twelfth periodic reports by the Netherlands Antilles and the eighth, ninth, tenth, eleventh and twelfth periodic reports by Aruba, and covers the period up to December 1995. The report should be read in conjunction with previous reports submitted by the Kingdom of the Netherlands and the core document.

Part One

The Netherlands (European part of the Kingdom)

I. PRELIMINARY REMARK

2. There is an essential difference between the terms "aliens" and "foreigners" and the term "ethnic minorities". The first two terms arise from a legal distinction between aliens and nationals. The term "ethnic minorities" refers to ethnic groups which are the subject of Dutch minorities policy. These groups include aliens and former aliens as well as Dutch nationals.

II. INFORMATION RELATING TO ARTICLES 1 TO 7 OF THE CONVENTION

A. Article 1 - The term "racial discrimination"

3. In discussing article 2, paragraph 1 (d), the Government of the Netherlands will explicitly refer to the statutory regulations embodied in the Criminal Code. However, the Government will endeavour, on the basis of recent case law, to indicate how Dutch courts interpret and apply the anti-discrimination provisions of the law in practice, with particular reference to the Convention.

4. Case law reveals that the term "race" is broadly interpreted, in line with article 1 of the Convention; in interpreting this term, the courts have regularly made explicit reference to the evident tenor of the Convention definition. On 14 March 1989, for example, the Supreme Court held that, notwithstanding the defendant's use of expressions specifically referring to the religion of certain individuals, the defendant evidently intended to refer to certain groups of people of a particular ethnic origin. On 1 May 1990 the Supreme Court held that the term "race" as used in the provisions on discrimination also covers ethnic origin (the case in question concerned Turks and Moroccans).

5. Another Supreme Court decision, dated 2 May 1995, concerned the expression "multiracial mishmash" used in leaflets issued by a political party. Both the Supreme Court and the appeal court that had dealt with the case at an earlier stage considered this to be a racial slur which contravened

article 137e of the Criminal Code. The courts reached this conclusion after assessing the expression in the context of the remaining content of the leaflets (particularly the terms "illegal aliens", "asylum seeking cheats" and "asylum fraud"). It is common knowledge that such expressions are intended to refer to groups of aliens living in the Netherlands.

6. On the same day, the Amsterdam District Court handed down a conviction for contravention of Articles 137c, 137d and 137e of the Criminal Code, on the grounds that the use of the terms "multiracial mishmash" and "multiracial impoverishment" were racial slurs against groups of people of foreign origin living in the Netherlands. According to the court, the word "multiracial" was evidently intended to refer to aliens with external racial characteristics that differed from those of the indigenous Dutch population. In the court's opinion, the fact that such groups were not identified by name, or that no specific details were given of the characteristics referred to, did not make any difference. Among other reasons, the court reached its conclusion because the term "multiracial" was used in conjunction with references to "hundreds of thousands of unwanted legal and illegal aliens", "tens of thousands of asylum seeking cheats" and "all the criminal, parasitic, illegal aliens". Specifically, this contravened articles 137c, 137d and 137e of the Criminal Code.

7. In a judgement dated 21 February 1995, the Supreme Court held that the wearing of an armband displaying a swastika was "a visual slur" against Jews "on account of their race" which constituted a criminal offence under article 137c of the Criminal Code. This was because the swastika is the symbol of the national socialist ideology, of which racial doctrines and anti-Semitism are characteristic features. The Supreme Court hereby upheld an earlier judgement by Leeuwarden Court of Appeal.

8. On 15 March 1995, the Arnhem police court held that the shouting of slogans such as "Ausländer raus" (German for "Foreigners go home") and "Holland for the Dutch" likewise contravened article 137c of the Criminal Code.

B. Article 2

1. Paragraph 1 (a) to (c)

(a) Policy on minorities

9. Preventing and combating the various forms of discrimination is a major responsibility of Government. In this connection, both policy measures and statutory instruments need to be tightened up. Amendments to existing laws and evaluation of new legislation are also important. The Ministry of Justice and the Ministry of the Interior evaluate proposed legislation and orders in council to determine whether they contain discriminatory provisions that conflict with the principle of equality. An important feature of this anti-discrimination policy is the wish to ensure that aliens admitted to the Netherlands are integrated into Dutch society. Besides its responsibility for supervising aliens and granting or refusing them entry, the Government also has a duty to give a hospitable welcome to all immigrants once they have been granted admission.

10. In accordance with the 1983 policy document on minorities, a Minorities Policy Action Programme is presented to parliament every year.

11. The 1988 Action Programme reviewed the four-year period which the Government had been given to implement the measures announced in the minorities policy document. It found that satisfactory progress had been made in several areas. Efforts in the fields of housing, education and employment - the areas given the most weight in the policy document - had proved less successful. On 1 October 1987, in the light of these findings, the Government asked the Advisory Council on Government Policy (WRR) to advise on priorities for future government policy. On the principle that members of ethnic minorities should have access to general facilities and services, the WRR's mandate from the Government was to indicate whether existing instruments should be modified or new ones developed with a view to achieving considerably better results in these areas.

12. Any new legislation passed will be constantly checked to ensure that it conforms with constitutional and international law. Assessing the legislation for compliance with the ban on discrimination and the principle of equality will be an important part of this process.

13. On 24 January 1991, a report drawn up by the interministerial working party on the law and the principle of equality, entitled "Equal in Practice", was submitted to parliament. The report includes an inventory and an analysis of principles of equality as laid down in national, EC and international law and their implications for Dutch legislation and case law.

14. The 1996 Annual Survey discusses the policy developments that have occurred during the previous parliamentary year, and offers a preview of activities for the following year. The basic principle is that all legal residents of the Netherlands who are members of an ethnic minority are entitled to equal treatment. It is the duty of the authorities to guarantee this. In addition to general government policies directed at all residents of the country, policy on the integration of ethnic minorities represents a particular effort to ensure that they too receive equal treatment. Such particular efforts are apparently still required, as the Outline Paper "Policy on the integration of ethnic minorities" (Lower House 1993-1994, 23 684 No. 1), published in April 1994, makes clear.

(b) Major cities policy

15. In the four major cities of Amsterdam, Rotterdam, The Hague and Utrecht, the city authorities are working with the central Government by means of covenants (administrative agreements which are not legally binding) to reinforce the cities' economic and social functions. The focus here is on employment and education, public safety, quality of life and social services. Minorities are partly covered by general policy on deprived areas and population groups. Another area in which minorities receive special attention is education (integration and language schemes).

16. In 1990, 45 per cent of the country's ethnic minorities lived in the four major cities, as against 10 per cent of the indigenous Dutch population. Of the four biggest minority groups, the Surinamese are the most highly

concentrated in the cities: in 1990, 57 per cent of them lived there, compared with 47 per cent of Moroccans, 36 per cent of Turks and 31 per cent of Antilleans and Arubans.

(c) Policy on itinerants

17. In 1995, interministerial policy on itinerants was evaluated and discussed in parliament. The results of this evaluation are set in a report entitled "Policy on itinerants, 20 years down the road". In the light of disturbing findings concerning the position of itinerants and gypsies, particularly as regards education and employment - a position even worse than that of Turks and Moroccans - the Government has decided to focus additional attention on this particular minority group. In cooperation with provincial and local authorities, two integrated projects for itinerants will be set up in the provinces of North Brabant and Limburg. These projects will be based on a simultaneous, integrated approach to problems of housing, education, employment, welfare, health care and public order, and will be operated jointly by local authorities, private institutions and government agencies. Active involvement of local councils, institutions and the minority group concerned is a good way to develop and implement preventive and curative policies. Ensuring proper access to education, employment and public services by empowering members of the minority group and making services more customer-oriented will, it is hoped, help this group to become more self-reliant.

2. Paragraph 1 (d)

(a) Criminal Code

18. The bill to amend and extend the anti-discrimination provisions of the Criminal Code was submitted to the upper house of parliament, as announced in the eighth and ninth reports, and was subsequently approved. The new or amended provisions entered into force on 1 February 1992. Annex 2 contains a summary of the provisions as they were up to 1 February 1992 and as they are now. A brief explanation is given below.

(a) Article 90 quater contains definitions. In the light of, inter alia, the definition of discrimination in article 1 of the International Convention on the Elimination of All Forms of Discrimination against Women, in which the words "public life" are not mentioned in the final provisions, the words "public life" have been replaced by "social life" in this article;

(b) The words "heterosexual or homosexual orientation" have been added to both article 137c and article 137d. "Sex" has also been added to the grounds for discrimination listed in article 137d. The reason for not mentioning it in article 137c is the fear that this would interfere too greatly with freedom of expression, particularly in the case of feminist literature;

(c) Article 137e deals with the distribution of discriminatory material. The new second part of the first paragraph now includes provisions to prevent unsolicited mailing of discriminatory or offensive utterances.

The courts have not construed the mailing of a single consignment (addressed to a specifically named recipient) as constituting public distribution;

(d) Article 137f defines all forms of involvement in discriminatory activities as indictable offences, covering discrimination on all the grounds referred to in the Act. This supersedes the former article 429 ter, which made involvement in such activities a summary offence. The penalty imposed has not otherwise changed;

(e) Article 137g makes it an offence to discriminate intentionally on grounds of race in an official, professional or business capacity;

(f) Article 429 quater extends the provisions to include all grounds for discrimination referred to in the Act, as well as acts by public officials.

19. A number of judicial decisions concerning articles 137c, 137d and 137e of the Criminal Code were mentioned with reference to article 1.

20. The following judgement concerning Article 137e is worth noting. On 16 March 1995, The Hague District Court held that utterances denying the Holocaust were offensive to Jews on racial grounds. Unsolicited mailing of leaflets and books containing utterances of this kind could not be construed as mere factual reporting, and therefore contravened Article 137e. An appeal has been lodged against this judgement, but it is not yet known when the appeal will come to court.

21. In connection with article 429 quater, the Netherlands Government also considers the following judicial decisions to be of relevance:

(a) The eighth and ninth reports referred to the case of a travel agency and an airline which were convicted of discrimination for refusing to sell tickets for a charter flight to Turkey to someone of Turkish nationality. This verdict of Haarlem District Court was upheld by the Amsterdam Court of Appeal on 6 September 1990. Appeal in cassation was lodged against the Appeal Court judgement, and on 13 December 1991 the Supreme Court quashed both judgements on the grounds that the distinction made in this case was on grounds of nationality in the purely political sense and so was not automatically covered by the anti-discrimination provisions. The Supreme Court added that the situation might be different if the distinction were to result, even unintentionally, in a discriminatory distinction being made. Incidentally, this was a civil claim;

(b) On 20 March 1992, the Amsterdam District Court held, on appeal, that a person who had refused to rent a flat to a woman of Filipino origin had been guilty of discrimination in a professional or business capacity as referred to in Article 429 quater of the Criminal Code, even though property rental was not that person's main profession. The landlord was not personally resident on the premises where the flat was located. The defendant had previously been acquitted by the subdistrict court;

(c) On 8 February 1994, the Utrecht District Court also overturned a subdistrict court judgement. An estate agent who had been instructed by a

house owner not to sell her house to anyone of Turkish origin had been acquitted of contravening article 429 quater. The District Court held that the estate agent was personally criminally liable for acting on the owner's instructions, and that he was not entitled to claim in his defence that he had merely acted as an intermediary. He was therefore found guilty of contravening article 429 quater.

(b) Other provisions

22. Paragraph 99 of the eighth report noted that a joint code of conduct had been drawn up by the National Bureau against Racism and the Association of Employment Agencies. This code has since been evaluated, again with the assistance of the National Bureau against Racism. The results of the evaluation were submitted to parliament in the second half of 1991.

23. The National Bureau against Racism and the Netherlands Association of Automobile Insurers have jointly published a code of conduct for the insurance sector.

24. In 1990, the National Bureau against Racism began negotiations with The Hague municipal authorities concerning an anti-discrimination code for the public education system. Among other things, this code provides for the appointment of counsellors in schools whom pupils can approach in cases of discrimination, and contains recommendations on how schools should treat pupils from ethnic minorities.

25. The Ministry of Health, Welfare and Sport has asked existing anti-discrimination organizations to pay particular attention to the registration and handling of complaints about discrimination in sport. In this way the Ministry hopes, in consultation with the Netherlands Sports Federation, to focus attention on the potential role of such organizations in the sports world. The Ministry is discussing the problem of discriminatory behaviour by football supporters with the Royal Netherlands Football Association. The Guidelines on Measures to Combat Football Hooliganism, which were drawn up by the meeting of procurators general and came into force on 1 June 1994, call for particular attention to be paid to racist utterances and discriminatory behaviour by football supporters. The Ministry has raised the problem of supporters with the Council of Europe's Permanent Committee on Football Hooliganism, and will examine whether extra measures are needed at European level.

26. On 5 February 1991 the Netherlands Sports Federation (the umbrella organization for sports clubs in this country) held a one-day symposium on discrimination in sport, during which the National Bureau against Racism called for a code of conduct on the subject. The Netherlands Sports Federation has since begun discussions with the National Bureau against Racism and a firm of consultants on the drafting of such a code. Further information on anti-discrimination policy in sport is given under article 7.

27. Following the report issued in May 1990 by the Minister of Social Affairs and Employment on "Applicability of psychological tests to ethnic groups", the Government Psychological Service has decided to increase its

research into the type of language used in such tests, as well as item bias. The Service will also evaluate tests on people from ethnic backgrounds more closely, focusing on their predictive value.

3. Paragraphs 1 (e) and 2

(a) Advisory Council on Government Policy's (WRR) recommendations on immigrant policy

28. The WRR published its recommendations on immigrant policy in May 1989. It found that two important developments had occurred since the introduction of the minorities policy in 1980. First, during the period under review the number of people at whom the minorities policy was aimed had increased from 473,000 to 753,000. Second, over the same period unemployment among minority groups had risen to between 23 per cent and 40 per cent or more of people of working age, whereas the rate of unemployment among the indigenous population had remained stable for quite some time. The WRR considered this an extremely disturbing phenomenon, and one which could end up generating a sense of despair among the children of the present generation of immigrants.

29. The WRR saw evidence of a marginalization process which was largely due to more general trends in Dutch society. Unless minorities policy is rooted in an overall policy designed to counter such general trends, it is doomed to address no more than the symptoms. The WRR therefore called for an overall policy to deal with this problem. It expected immigration to remain a policy issue, even if a restrictive immigration policy were adopted. In the opinion of the WRR, integration policy must aim to increase participation by minorities in essential social sectors and institutions. In this connection, the WRR identified access to employment as an important form of integration. Training and adult education were supporting components of this process.

30. The WRR believed that policies aimed at combating disadvantage among ethnic minorities should be continued, and that they should be greatly intensified in the following three sectors: employment, education and adult education. Investing in these areas would largely obviate the need for specific measures to help minorities in other areas. Integration and participation would also be enhanced by improving the legal status of minorities and by combating discrimination. Following the recommendations of the WRR report and a parliamentary debate, the Government expressed views favouring greater participation and integration. It therefore announced new measures and tightened up existing measures in the following areas:

(a) Legal status of minorities and measures to combat discrimination;

(b) Access to employment, including a policy on preferment and affirmative action;

(c) Education and training.

(b) Reception and integration policy - a new administrative philosophy

31. As regards the reception and integration of minorities, the 1994 Social Welfare Act entered into force on 1 January 1994. This Act is based on the

review (which began in the 1990s) of the respective roles of central and local government, individuals and non-governmental organizations in the Dutch welfare State. The aim is an integrated policy which will take account of the differing responsibilities of those involved, particularly the relationships between Government and the individual, the various tiers of Government, and government and non-governmental organizations. Government bodies, social welfare organizations and the other parties involved are working together in an effort to create the best possible conditions for all members of society and to increase the level of social cohesion.

32. The basic principle is that individuals are responsible for their own actions in their own social environment. The review of the role of social welfare organizations and the facilities which they offer is part of a new perception that Government cannot, and should not, be responsible for everything. It should not intervene as a matter of course, but only as a last resort, and then at a level of government which is as close as possible to the individual. In line with this new philosophy, the local authorities have been assigned various executive tasks in immediate contact with the individuals concerned. The role of the provincial authorities is to support the local authorities in implementing this policy.

33. The role of central Government includes monitoring, analysing and identifying developments that affect social structure and cohesion, and putting them on the political agenda. As part of its ultimate responsibility, the central Government also has a number of tasks at national level (providing a national infrastructure for national organizations, initiating innovative projects of national relevance, and defending the Netherlands' welfare policy at international level).

34. The Institute for Multicultural Development (FORUM), which was set up in July 1995, is part of the national infrastructure. The Netherlands Government gives FORUM a grant to increase access by minorities to public services and institutions in the fields of employment, education and training, health care, legal status, welfare, culture and housing, by means of development of methodology, consultation, coordination and advocacy. In addition to its grass-roots activities, the activities of FORUM are aimed at the authorities, non-governmental organizations and society in general.

(c) Reception and integration of minorities: policy on newcomers

35. Since 1990, minorities policy has focused on the position of adult immigrants who are no longer eligible for compulsory schooling. A scheme has been set up to help new immigrants integrate fully into Dutch society. In order to do so, they need to learn Dutch and should have access to the services and facilities available to the Dutch general public.

36. The scheme is intended for new legal immigrants who plan to remain in the Netherlands permanently. More specifically, it is aimed at people aged 18 and over (there is no further age limit) who have been granted a residence permit or refugee status and who might otherwise find themselves at a disadvantage in society. In principle, the scheme is open to all new arrivals in the Netherlands. However, since many of them are able to adjust without

such assistance, it specifically targets people from countries whose nationals are known to have difficulty in adapting to life in the Netherlands. These countries are:

(a) Turkey, Morocco, Cape Verde, Tunisia, Suriname;

(b) Developing countries in general;

(c) Aruba and the Netherlands Antilles.

37. The local authorities are responsible for setting up local schemes and organizing them as effectively as possible. The central Government's role is to draw up a model scheme for local authorities and make support and financial and other incentives available to local authorities that intend to introduce such a scheme. Most local authorities have already set up such schemes.

38. As soon as an immigrant arrives in the Netherlands, the following process is set in motion. After new arrivals have registered with the Aliens Department and local population registry, they are invited by the local organizers to take part in the new arrivals scheme. They are entirely free to decide whether to do so or not. However, studies are being carried out to determine how these schemes can be made more compulsory. The schemes consist of a course on Dutch society and language (which is completed by about 92 per cent of those who take part) and further individual counselling on the available public services, education and child care, vocational training and finding a job. In this way, the local authorities can ensure a more rapid and successful transition from immigration to integration.

(d) Women from minority groups

39. The Ministry of Social Affairs and Employment sees the reduction of unemployment among women from different ethnic backgrounds as a priority task. A policy document on employment opportunities for women from minority groups provides for a medium-term project to combat discrimination against immigrant women in the labour market. Such affirmative action projects are designed to provide some 900 women from ethnic minorities with regular jobs in various social welfare sectors. As part of this plan, a Women and Minorities Employment Bureau was set up on 1 January 1991. A final report on the Women and Minorities project was published in spring 1991.

40. The Women and Minorities Employment Bureau has helped more than 1,000 ethnic minority women to find employment in areas such as health care and child care. The main spin-off of its activities is that institutions in these sectors are now more accessible to ethnic minority groups. The main aim of the Bureau is to ensure that national agreements between employers and unions on ethnic minority access to the labour market are put into practice.

C. Article 3 - Condemnation of apartheid: South Africa

41. In the past, the aim of Dutch policy towards South Africa was always to bring about the complete abolition of apartheid by peaceful means and its replacement by a democratic system. In this connection, the Netherlands pursued what was known as a "three-track policy". The first track involved

exerting pressure on the South African Government by curtailing political, economic, commercial, developmental, cultural, scientific and sporting links and other forms of cooperation. The purpose of the second track was to support social developments and emancipatory processes in South Africa, with a view to bringing about genuine reforms by peaceful means. For this purpose, support was given to non-governmental organizations, trade unions and other organizations belonging to the mass democratic movement; cooperation with the South African Government was not an option at that time. The third track was particularly aimed at encouraging the necessary dialogue within South Africa itself. However, rapid changes in South Africa soon made this last approach increasingly unnecessary. Since 1990 there have been changes in Dutch policy, which can be summed up as a shift from a policy of critical detachment to one of critical involvement.

42. Since the elections in April 1994, which finally put an end to apartheid, the Netherlands has endeavoured to further normalize its relations with South Africa. One essential aspect of this is providing support for the reform process. The three-track policy has therefore been abandoned in favour of full relations with the new, democratic South Africa. The main aims of this new policy are to continue to promote peaceful change and combat the effects of apartheid. In this connection, support for the democratization process at all levels and in all sectors of South African society during the present transitional period will need to be accompanied by measures to improve the socially and economically deprived position of large groups of South Africa's population.

43. During his visit to South Africa from 19 to 23 March 1995, the Dutch Minister for Development Cooperation took part in the first-ever policy talks between the two countries on the subject of development cooperation. Until the South African elections in April 1994, support had only been provided for development cooperation activities by non-governmental organizations working to achieve reforms and end apartheid. The Netherlands now has official development links with South Africa.

D. Article 4

(a) Criminal Code

44. The amended and extended anti-discrimination provisions of the Criminal Code were discussed with reference to article 2. The text of these provisions is reproduced in annex 2 to this report.

(b) Anti-discrimination guidelines for the police and the Public Prosecutions Department

45. The eighth and ninth reports noted the intention of the Minister of Justice to evaluate the guidelines for the Public Prosecutions Department on discrimination cases. The aim of this evaluation, which began in June 1991, was to investigate to what extent the guidelines were being followed, to what extent they contributed to an effective anti-discrimination policy, and how compliance could be improved. The study also looked at possible reasons for the reduction in the number of discrimination cases dealt with by the Ministry of Justice.

46. The new Guidelines on Discrimination Cases, drawn up by the procurators-general and partly based on the results of this evaluation and on the anti-discrimination provisions in force since 1992, entered into force in September 1993 (see Government Gazette 1993, 171). The Guidelines are reproduced in annex 1 to this report.

47. A number of the issues referred to in paragraph 3 of the Guidelines are connected with problems which have arisen in criminal cases, such as doubt as to the scope of the term "discrimination" and the demarcation between article 137c (discriminatory insulting language) and article 266 (insulting language) of the Criminal Code.

48. The Guidelines pay considerable attention to prosecution policy, since incorrect appraisal at the outset may result in the case having to be dropped. Such errors need to be avoided, as must the possibility that the discriminatory background to an "ordinary" offence may fail to be noticed. Among other things, the Guidelines prescribe that the police must draw up an official report on all complaints of discrimination and forward it to the Public Prosecutions Department as swiftly as possible.

49. The Guidelines further prescribe that the Public Prosecutions Department must pursue an active investigation policy in discrimination cases and should generally prosecute in all such cases. The Guidelines call for the police and the Public Prosecutions Department to appoint discrimination case coordinators who will hold periodic consultations with local anti-discrimination centres. At the moment, one of the procurators-general is specifically responsible for discrimination cases, and each public prosecutor's office has a prosecutor with similar responsibilities. Various police forces now also have a discrimination case coordinator.

50. The Guidelines lay down various basic principles regarding the penalties to be imposed in discrimination cases and cases with a discriminatory background.

(c) The L. K. case (Communication No. 4/1991)

51. The Netherlands Government believes that, in issuing the new Guidelines on Discrimination Cases, it has also complied with the recommendation of the Committee on the Elimination of Racial Discrimination in its Communication No. 4/1991 regarding the L. K. case under paragraph 6.8. With regard to the recommendation under paragraph 6.9, it can be stated that the Netherlands Government, in consultation with the applicant's counsel and the applicant, has provided reasonable compensation (8,500 guilders).

(d) Training and refresher training in investigation and prosecution

52. The amendments to the anti-discrimination provisions of the Criminal Code call for new skills on the part of the judiciary (both on the bench and in the Public Prosecutions Department). In November 1991, the Study Centre for Legal Procedure ran a course specifically devoted to the legal problems raised by these issues. The course was organized in cooperation with the National Bureau against Racism.

53. A special conference on the amendments to the anti-discrimination provisions of the Criminal Code and their practical implications for investigation and the administration of justice was held in April 1992. The conference was organized by the Ministry of the Interior, the Ministry of Justice and the National Bureau against Racism.

54. In October 1993, the Ministry of the Interior and the Ministry of Justice also organized a symposium to update and increase knowledge concerning the statutory framework for action to combat discrimination and the correct way of dealing with complaints of discrimination.

55. In October 1994, the same two ministries distributed to mayors and the Public Prosecutions Department a practical guide on possible legal action against politically extremist acts and utterances at local level.

56. In March 1995, the conference of procurators-general sent a letter to all chief public prosecutors, indicating the following nationally approved basic principles governing criminal justice policy on right-wing extremism. Criminal proceedings must be instituted wherever manifestly discriminatory utterances are made by right-wing extremist groups. The basic principles governing prosecution in cases of discrimination also apply to right-wing extremism, which is often accompanied by utterances which may be discriminatory. The Public Prosecutions Department has set up a national focal point for prosecution in cases of discriminatory utterances by right-wing extremist groups and individuals. The public prosecutors with specific responsibility for discrimination meet regularly for discussions and exchanges of information on ways of tackling discrimination. The purpose of these meetings is to increase the quality and uniformity of responses to discrimination by the criminal justice authorities.

57. The Ministry of Justice has allocated an annual sum to support the anti-discrimination policies of the Ministry of Justice and the Public Prosecutions Department. These funds are especially intended for legal action to combat discrimination, for example by increasing expertise within the police and the Public Prosecutions Department.

58. The position of ethnic minority groups in society and the relevant welfare organizations are now systematically referred to in police training. The Netherlands Police Academy also deals with these issues. In addition, in-service refresher courses on the position of ethnic minority groups in society are regularly given as part of police training.

1. Article 4 (a) - Dissemination of ideas based on racial superiority or racial hatred

59. In addition to the case law already discussed, the Netherlands Government wishes to cite another example of a case in which the defendant was found guilty.

60. The eighth report by the Netherlands described a series of proceedings instituted against an evangelical married couple who had distributed a leaflet from door to door claiming that the Jews had brought persecution on themselves by crucifying Jesus. The following developments have since taken place.

On 18 October 1988, the Supreme Court quashed the verdict of the Arnhem Court of Appeal (dated 29 May 1987), which had found the defendants not guilty of making utterances offensive to Jews on the grounds of their race, religion or ideology. On 16 March 1989 the Leeuwarden Court of Appeal sentenced the couple to two months' imprisonment, suspended for two years. Soon after this, proceedings were instituted before the Arnhem District Court against the same defendants for similar offences under article 12 of the Code of Criminal Procedure, in response to a complaint lodged by the Centre for Information and Documentation on Israel, the Anne Frank Foundation and the Jewish-Christian Consultative Committee regarding statements in the evangelical newssheet "Evan" which were considered to be offensive to Jews. The Arnhem Court of Appeal upheld the complaint, and the case went to the Zwolle District Court. On 15 October 1991, this court found the defendants guilty and ordered the suspended sentence handed down by the Leeuwarden Court of Appeal to be executed.

2. Article 4 (b)

Political parties

61. Articles 51 and 140 of the Criminal Code and article 20 of Book 2 of the Civil Code apply to right-wing extremist groups. Under article 51 of the Criminal Code, legal persons can also be prosecuted for offences. Proceedings can be instituted against the legal person as such and against the individuals who gave instructions for the offence to be committed or were in de facto control of the prohibited action. Article 140 of the Criminal Code prescribes, among other things, that membership of an organization set up for a criminal purpose is an offence. Under article 20 of Book 2 of the Civil Code, any legal person whose activities are contrary to public order can be prohibited and dissolved by court order at the request of the Public Prosecutions Department. The courts also have powers to dissolve a political party under the terms of this article. The Netherlands Government takes the view that, in a democratic society, such powers should only be used in extreme cases.

62. Members of right-wing extremist parties have repeatedly been prosecuted in recent years. During the 1986 local government elections, a member of a local political group made discriminatory utterances in an election newsletter and incited people to hate members of minorities in the Netherlands (in contravention of articles 137e and 137d of the Criminal Code). The Supreme Court upheld the verdict of a lower court with reference to the same articles. This decision also confirmed that article 7 of the Constitution, article 10, paragraph 2, of the European Convention on Human Rights and article 19, paragraph 3, of the International Covenant on Civil and Political Rights (all dealing with freedom of speech) allowed articles 137c-137e of the Criminal Code to be applied.

63. Several complaints were lodged against a political party and its leader regarding discriminatory utterances in the media during the 1989 election campaign. These complaints were coordinated by the public prosecutor's office in The Hague, and a preliminary judicial investigation was initiated. As a result, the party and its leader were convicted under articles 137c and 137d of the Criminal Code by The Hague District Court on 4 May 1994; this verdict

was upheld on appeal by the Court of Appeal in The Hague on 28 March 1995. Both the defendants and the Public Prosecutions Department have appealed in cassation against the appeal court judgement. The party was ordered to issue a retraction of the same racist utterances at a civil hearing on 27 July 1989. This ruling was upheld on appeal on 20 March 1991.

64. On 29 May 1990 Breda District Court sentenced two members of the Netherlands Youth Front to eight months' imprisonment (six of which were suspended) and four months' imprisonment (three of which were suspended) for making discriminatory utterances and for being members of an organization set up for a criminal purpose (art. 140 of the Criminal Code). The defendants and the public prosecutor both appealed against the judgement. On 20 March 1992 the Court of Appeal in 's-Hertogenbosch upheld the Breda judgement, but commuted the prison sentence to community service.

65. On 8 November 1988, a member of the Netherlands Youth Front who had originally been acquitted by Arnhem District Court was sentenced by the Arnhem Court of Appeal to one month's imprisonment and a 750 guilder fine (or 15 days' imprisonment on default). The individual in question was convicted of issuing a leaflet which claimed, under the heading "Immigration? No thanks", that non-Europeans were a serious threat to Dutch society purely because they were not white. This was a case of both discrimination and incitement to racial hatred. The Court of Appeal did not find sufficient evidence that the defendant was a member of a criminal organization.

66. On 25 April 1994, Zwolle District Court convicted a member of a right-wing extremist party for contravening articles 137c and 137d of the Criminal Code by making certain utterances in leaflets and a party newspaper.

67. In the judgement of Amsterdam District Court on 2 May 1995, which was mentioned in connection with article 1, a legal person was convicted of incitement to hatred of, or discrimination against, a group of individuals and violence against individuals or their property on account of their race. The defendants were a right-wing extremist political party and the members of its managing committee. The committee members were all convicted of being members of a criminal organization which they had set up in order to commit crimes under articles 137c, 137d and 137e of the Criminal Code, and of being in de facto control of the prohibited actions carried out by the legal person under the terms of articles 137c and 137d. The appeal was heard on 27 November 1995, but the appeal court had not given judgement at the time of writing.

E. Article 5

1. Article 5 (b) - Immigration policy

68. An extensively revised version of the Aliens Act (1965) entered into force on 1 January 1994. The amendments to the Act were inspired by far-reaching changes in national and international immigration policy in recent years. The main principles underlying the revised Aliens Act are: rapid, short application procedures; effective monitoring and expulsion of illegal immigrants; measures to stop illegal residence.

69. Aliens can be admitted to the Netherlands through two channels: aliens policy, and refugee and asylum policy. The Netherlands' overall aliens policy is restrictive, whereas its refugee and asylum policy is not. It is, however, restrictive in the sense that admission to the Netherlands is based on specific admission criteria, which prescribe that aliens may only be admitted to the Netherlands for one of the following three reasons:

(a) In order to comply with international obligations (for example, under the European Convention on Human Rights or EU treaties);

(b) If their admission serves essential Dutch interests (e.g. if the alien has specific knowledge, skills or expertise not available in the Netherlands);

(c) For compelling humanitarian reasons (e.g. family reunification).

70. This restrictive policy is due, among other things, to the fact that the Netherlands is a small, densely populated country with a high rate of unemployment and a housing shortage. The policy is also designed to ensure, where possible, that aliens who are admitted to the Netherlands have the best possible opportunities for personal development, while taking into account the need to ensure that the policy has sufficient public support. Unlike the Netherlands' aliens policy, refugee policy is not restrictive, but is generous and based on humanitarian criteria. "Generous" in this context means that it does not matter whether 1,000 or 100,000 refugees arrive each year. Any asylum seeker who satisfies the definition in the 1951 Geneva Convention will be granted refugee status.

2. Article 5 (c) - Enfranchisement of aliens

71. In 1983 a new article 130 was added to the Constitution, reading as follows: "The right to elect members of a municipal council may be granted by Act of Parliament to residents who are not Dutch nationals, provided they fulfil at least the requirements applicable to residents who are Dutch nationals". The legislature subsequently exercised this power in an Act of Parliament dated 29 August 1985 (Bulletin of Acts and Decrees, 487) which entitled aliens who had been resident in the Netherlands for an unbroken period of five years and held a valid residence permit to vote for and be elected to local councils.

72. Apart from three local authorities which held elections on 27 November 1985, the local government elections of 15 March 1986 were the first in which alien residents had the vote. Out of almost 11 million voters, some 300,000 were not Dutch. In 1986 it is estimated that 46 per cent of alien electors used their vote. As far as is known, 30 aliens were elected to 25 local councils. Local government elections were again held on 21 March 1990, giving alien residents a second opportunity to vote. Once again, more than 300,000 of them voted. This time 28 aliens were elected (to 24 councils).

73. The Government Policy Accord addressed the enfranchisement of alien residents at provincial and national level. In its report, the relevant

committee recommended that such enfranchisement should have a logical connection with developments towards European integration. According to the Policy Accord, this issue should not be viewed in isolation from developments in Europe, which call for consultation and consideration of basic principles.

74. During the last round of amendments to the Constitution, the legislature took the view that aliens should not be allowed to vote at provincial or national level.

3. Article 5 (d) (iv) - Marriage

75. In principle, any man or woman who has reached the age of 18 is entitled to marry (art. 31, para. 1 of Book 1 of the Civil Code). The minimum age limit does not apply if the individuals wishing to marry have reached the age of 16 and the woman produces a statement from a physician that she is pregnant or has already given birth (art. 31, para. 2, of Book 1 of the Civil Code). Marriage may not take place if the mental capacities of either party are so impaired that he or she is unable to determine his or her own free will or to understand the meaning of his or her undertaking (art. 32 of Book 1 of the Civil Code). Only monogamous marriage is recognized; in this connection, it is irrelevant whether the previous marriage was contracted abroad or in the Netherlands (art. 33 of Book 1 of the Civil Code). Bigamy is an offence (art. 237, para. 1, of the Criminal Code). The spouse of the person wishing to remarry is entitled to prevent the intended marriage (art. 52 of Book 1 of the Civil Code).

76. In order to make it easier for two people of different nationalities to marry, the law makes provision for them to apply for a certificate of no impediment (art. 49a of Book 1 of the Civil Code). This means that a Dutch national who wishes to marry outside the Netherlands can obtain a certificate stating that there is no impediment to the marriage under Dutch law. The application must be submitted to the local registrar of births, deaths and marriages or, in the case of people who have never lived in the Netherlands, the diplomatic or consular representative of the Netherlands in the place where the marriage is to take place. The couple are required to state before the registrar that they wish to marry (art. 67, para. 1, of Book 1 of the Civil Code). They must make this statement of their own free will. They cannot insist on the fulfilment of earlier promises of marriage. Failure to fulfil a promise of marriage does not constitute grounds for damages (art. 49, para. 1, of Book 1 of the Civil Code), but breach of promise following the statutory announcement of the marriage can constitute such grounds (art. 49, para. 2, of Book 1 of the Civil Code). If the marriage took place under duress, i.e. without free consent, a spouse can apply for it to be annulled (art. 71, para. 1, of Book 1 of the Civil Code). A spouse can also apply for an annulment if, at the time the marriage took place, he or she was unaware of the true identity of the other spouse or of the meaning of the undertaking he or she was giving (art. 71, para. 2, of Book 1 of the Civil Code). Any marriage contracted between a Dutch national, or an individual with an independent right of residence in the Netherlands, and an alien for the sole purpose of giving that alien an independent right of residence in the Netherlands is null and void (art. 71a of Book 1 of the Civil Code).

4. Article 5 (d) (v) - Property

77. Everyone is entitled to hold property. However, there are restrictions on the use of property rights. Such use must not infringe the rights of others or restrictions based on statutory provisions or the rules of unwritten law (art. 1 of Book 5 of the Civil Code). Article 1 of the First Protocol to the European Convention on Human Rights guarantees everyone the right to the peaceful enjoyment of their possessions.

5. Article 5 (d) (vi) - Inheritance

78. Rights of inheritance are determined by kinship. A person's nationality does not affect his or her right to inherit.

6. Article 5 (d) (iii) - Nationality

79. Any child whose father or mother was a Dutch national at the time of the child's birth, or a Dutch national who died before the child was born, acquires Dutch nationality. A foreign child acquires Dutch nationality if a Dutch national officially acknowledges the child as his or her own. A foreign child adopted by a Dutch national likewise acquires Dutch nationality.

80. Foreigners may acquire Dutch nationality if they apply to do so and meet the relevant statutory requirements. The conditions which they must satisfy are as follows:

(a) They must have attained the age of majority;

(b) There must be no objection to their residing indefinitely in the Netherlands, the Netherlands Antilles or Aruba;

(c) They must have been domiciled or effectively resident in the Netherlands, the Netherlands Antilles or Aruba for at least five years immediately prior to the application; and

(d) They must be deemed to have become integrated in one of the aforementioned territories, by virtue of having a reasonable knowledge of the Dutch language and having been assimilated into society.

81. Persons in respect of whom there are objections to their residing indefinitely are those who hold a temporary residence permit or a visa.

82. The requirement concerning assimilation into society means, among other things, that married persons must be monogamously married. Foreigners who satisfy the above conditions can acquire Dutch nationality unless there are serious grounds to believe that they may be a danger to public order, morals, health or security. Whether this is the case is determined, in particular, in the light of convictions for criminal offences.

83. Since 1 January 1992, foreigners have no longer been required to give up their original nationality in order to become Dutch nationals. The resulting dual nationality is only possible if permitted under the nationality laws of the foreigner's original country.

7. Article 5 (d) (vii) - Burial and Cremation Act

84. New provisions concerning funeral arrangements came into force with the adoption of an Act of Parliament dated 7 March 1991 (Bulletin of Acts and Decrees 1991, 130). This makes considerable allowance for the differing cremation and burial traditions of the various ethnic groups now living in the Netherlands. Whereas a closed coffin was previously compulsory, an open coffin or a shroud may now be used if funeral rites so require.

8. 5 (e) (i) - Employment policies

(a) General

85. Until the Manpower Services Act came into force on 1 January 1991, employment policy was the responsibility of central Government. Since then, employment policy has been split into three; the policy of the Ministry of Social Affairs and Employment to combat discrimination in employment and the policy to combat unemployment among immigrants are now the responsibility of different government departments. The Central Manpower Services Board (CBA), which includes representatives of central Government as well as employers' and employees' organizations, is now responsible for labour market policy. In areas where the Ministry of Social Affairs and Employment has retained responsibility, the emphasis is on efforts to encourage more members of ethnic minorities (and other disadvantaged groups) to enter the labour market. In addition, attention is paid to such issues as labour mobility and the ways in which people cease to be employed (e.g. through dismissal).

86. The CBA's labour market policy for minorities was originally initiated by the Joint Industrial Labour Council, a body set up by employers' and employees' organizations. On 14 November 1990, the Council committed itself to ensuring, by means of an integrated approach, that the labour market position of ethnic minorities would be proportionally equivalent to that of the indigenous working population within four or five years. The document containing this commitment is known as the Council Agreement. Ensuring that ethnic minorities achieve this level of employment means creating tens of thousands more jobs than were available at the end of 1989. Account must also be taken of the fact that ethnic minorities are growing faster than the indigenous working population. What this means, in effect, is that 60,000 new jobs must be created within five years.

87. The CBA has agreed to cooperate with the Joint Industrial Labour Council to achieve this objective. The CBA considers that the Council's plans will help it to implement its own policy. These plans, together with those of industry, are important prerequisites for achieving proportional employment levels within a few years. The CBA has a good working relationship with companies through its regional branches (known in Dutch as RBAs), although companies retain ultimate responsibility. The CBA is currently appointing 50 support staff and setting up a coordination centre. The CBA can also assist by devising a uniform registration method for minorities.

88. On 10 October 1995, employers and unions decided that the 1990 minorities agreement, which had been due to expire at the end of 1995, should be extended for one year in view of the social and socio-economic importance of improving the labour market position of ethnic minorities.

89. The Netherlands Government believes that intervening to achieve proportional employment levels is not in itself sufficient to reduce unemployment among ethnic minorities. If progress is to be made towards achieving a fair share of employment (and unemployment), it will be necessary to find out whether, and how, the CBA's mandate could be extended with reference to the Joint Industrial Labour Council's plans. The Government believes that the Council's plans could generate broad support to ensure that more vigorous efforts by the CBA succeed. For example, the Government points to the appointment of staff who liaise between RBAs and companies with a view to increasing the number of jobs for members of ethnic minorities. Another important part of the Council's approach is that information will be exchanged between RBAs and companies in the various regions. This will help to support regional policy plans. Finally, the Government considers that a reliable, straightforward registration system for ethnic minorities is an essential part of this approach. It is important that Government, industry and the CBA/RBAs should have a uniform registration system.

90. The Government supports the Council Agreement and considers it an improvement on the original proposals for employment promotion legislation. Measures worked out by the employees and employers concerned are more likely to succeed than legislation. The first interim evaluations of the aforementioned Council Agreement, in 1992 and 1993, show that the Agreement has not yet had sufficient impact. In 1994, partly in view of these disappointing results, parliament adopted an Act to promote proportional access to employment by ethnic minorities (the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants, discussed in more detail below under article 5 (e) (i)). The Act requires employers who employ 35 or more employees to draw up an annual plan of action (which does not have to be published) indicating the targets they have set; to submit to the Chamber of Commerce an annual report containing figures on the proportion of ethnic minorities in the workforce and details of action taken over the past year; and to keep separate records of the percentage of ethnic minorities employed in their company. The Act will be evaluated in mid-1996.

(b) Employment of ethnic minorities in government departments

91. In its 1983 policy document on minorities, the central Government indicated its wish to improve levels of employment among ethnic minorities. Research carried out in 1983 and 1985 showed that there were scarcely any systematic personnel policies aimed at ethnic minorities. In response to this, a policy plan entitled "Employment of ethnic minorities in central government departments" was submitted in April 1987. The first and second Ethnic Minorities in Government plans (known in Dutch as "EMO plans") have since been published. The aim is still to achieve proportional levels of employment for ethnic minorities in Government departments. This means more equal access in terms of both grade and ethnic origin. The results so far have been encouraging. In 1993 the net intake totalled 450, which means that

half of the EMO targets were achieved during the period 1991-1993. The net intake in the various scales was reasonably in line with the targets set out in the second EMO plan. Women accounted for more than half of the net intake. The intake of Turks and Moroccans (which was insufficient during the first EMO plan) is now rising, from 24 per cent in 1991 to 33 per cent in 1993, with an average share of 28 per cent. The ministries were each required to achieve their own targets, and succeeded fairly well.

92. The second EMO plan will come to an end on 31 December 1995. Beyond that date, efforts will be focused on implementing the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants, which entered into force on 1 July 1994 (discussed in more detail below).

93. The priority group recruitment service at the Ministry of the Interior, whose task is to recruit members of minority groups for posts in the various ministries, was taken over by the Start employment agency at the end of 1995. This agency has considerable experience in finding jobs for specific groups, and will continue to recruit members of minority groups (including disabled people) for the various ministries in the same way as its predecessor.

(c) Employment of minorities in the armed forces

94. The 1983 policy document on minorities laid down the ground rules for personnel policy with regard to ethnic minorities. The affirmative action plan for the integration of ethnic minorities into the armed forces was drawn up on this basis. Under the terms of this plan, the various services will endeavour to achieve a proportional share of minorities in their staff establishments and at the various grades. The military police will give applicants from ethnic minority groups preference in jobs involving contact with the public.

95. The Ministry of Defence has taken additional measures to recruit and select members of ethnic minorities so as to ensure the successful implementation of the affirmative action plan. A number of "minorities coordinators" have been appointed within the various services. Military selection boards have received "intercultural training". A course designed to bring potential recruits up to the required linguistic standard has been introduced at the Ministry of Defence, and particular attention is paid to potential cultural differences. Proposals have also been submitted for research into psychological tests to identify cultural bias.

96. The armed forces report every two years on the progress made in integrating ethnic minorities into the services. They also have special promotional and recruitment drives at festivals and cultural gatherings attended by members of ethnic minorities.

97. In the period 1990-1991, a total of 74 men and women were recruited from ethnic minorities. In the period 1993-1994 this figure doubled to over 140. The initial difficulties encountered in recruiting personnel from ethnic minorities were due, among other things, to a recruitment freeze imposed for budgetary reasons. With the end of conscription, and the concomitant increase

in demand for professional personnel, recruitment is once again increasing. In this connection, special attention will be paid to the recruitment of ethnic minorities and other under-represented groups.

98. To promote the integration of Jewish, Muslim and Hindu soldiers, efforts have been made to cater to their dietary needs and their different rest and feast days. Extra staff have been provided for the spiritual care of Muslim and Hindu soldiers (such care was already available for Catholic, Protestant, Jewish and non-religious personnel).

99. Civilian staff working for the Ministry of Defence are covered by the EMO plan. Special emphasis is placed on the transfer of knowledge about the differing norms and values of ethnic minorities. The purpose of this is not only to eliminate obstacles to the recruitment and selection of members of ethnic minorities, but also to resolve any problems that may arise during their work in the armed forces.

(d) Employment of minorities in government service

100. The 1858 Foreign Nationals (Public Service) Act was repealed on 2 November 1988 (Parliamentary Documents II, 1984-1985, 19076, Bulletin of Acts and Decrees 231 and 487, 1988). This Act specified a limited number of Government posts to which aliens could be appointed. In principle, now that this Act has been repealed, aliens can be appointed to any Government post other than ones which are statutorily restricted to Dutch nationals. The legal status of aliens in Government service is thus virtually equal to that of Dutch nationals.

101. Aliens can now hold any post in which no significant link between nationality and the duties involved is deemed to exist. However, such a link is deemed to exist in posts which essentially involve the exercise of direct authority over Dutch citizens, as well as posts associated with national interests such as State security (i.e. posts in the judiciary, the police, the armed forces and the diplomatic service, and posts involving access to sensitive and secret information). Only holders of such posts are required to have Dutch nationality.

(e) Employment of minorities in the police

102. For some years now extra attention has been paid to recruiting police officers from ethnic minorities. The measures taken include the following:

(a) Information campaigns aimed at ethnic groups;

(b) Additional information and recruitment material, including films and brochures;

(c) Involvement of minority organizations and experts from the Turkish and Moroccan communities.

103. Potentially suitable candidates from ethnic minorities who do not satisfy all the selection criteria are offered courses to bring them up to

the required standard. These topics covered in these courses include police organization, police culture, Dutch language and police jargon, study, work patterns and work placements. These integration courses are organized by one of the police colleges. A course to help immigrants obtain more senior posts in the police force was first organized in 1990.

104. On the basis of the affirmative action plan for ethnic minorities in the police (1988), a medium-term plan has now been drawn up. The aim of the plan is to recruit many more immigrants, especially Turks and Moroccans who are currently under-represented in the police force. It also aims to improve work skills and create better facilities for new recruits from ethnic minorities. Details of the plan are still being worked out.

105. In August 1990, on the basis of the affirmative action plan for ethnic minorities in the police (1988-1990), the Ministry of the Interior and the Ministry of Justice submitted a proposed new plan for the period 1991-1994. From this the following data emerged.

106. The 1983 policy document on minorities noted that 61 members of ethnic minorities were employed by the police in an active capacity. That figure has now risen by at least 500 per cent: more than 200 immigrants commenced basic police training during the period under review. More than 25 officers from ethnic minorities entered the force during this period. The numbers in civilian posts within the police are not known, because most forces do not record the ethnic origin of their civilian employees.

107. The great majority of police officers from ethnic minorities are of Surinamese or Antillean origin (including community officers, senior officers and senior staff). Over the period 1983-1987, members of ethnic minorities were mainly recruited in the four main cities. Since 1988 the intake has been more varied in terms of type of post filled, ethnic background (Turks and Moroccans are now also being actively recruited) and location (recruitment now extends to other parts of the country).

108. Nearly half the officers recruited from ethnic minorities in recent years joined the Amsterdam municipal police. The proportion of ethnic mincrity officers in that force was 3 per cent in 1991. The remainder were recruited in the other three main cities, with Amsterdam accounting for some 40 per cent of the total intake in all four forces.

109. Experience gained in 1990, which was declared Minorities Year by the Chief Constables of the four main cities (see CERD/C/184/Add.4), led to greater emphasis in three areas: more broadly based recruitment to include Turks and Moroccans, measures tc combat discrimination within police forces, and better relations between the police and ethnic communities. The importance of good relations between the police and the general public is well recognized. Police forces in the larger cities now have regular consultations with minority groups - often through official working parties and advisory bodies - in order to identify problems and, where possible, solve them.

(f) Protection against dismissal for foreign nationals undergoing military service

110. On the subject of employment rights, a bill to amend the Civil Code was submitted to Parliament on 20 September 1990 (Parliamentary Documents 11, 1990-1991, Nos. 1-2). The aim of the bill was to extend the protection against dismissal afforded to employees undergoing Dutch national service to employees required to undergo national service in their country of origin. This bill emerged from the "Minority, minority right?" exercise. On 27 November 1990 the Standing Committees for Justice and for Social Affairs and Employment published a joint report on the bill (Parliamentary Documents 11, 1990-1991, 21 824, No. 4). The bill has since passed into law (Act of 11 September 1991 to amend the Civil Code with regard to the protection of foreign employees against dismissal, Bulletin of Acts and Decrees, 473, 1991).

(g) Discrimination in the labour market

111. On 4 March 1991, the Minister for Social Affairs and Employment promised parliament that he would confirm, amend (where necessary) and implement the guidelines for the prevention of discrimination in the labour market, which have been circulated to employment office managers since 1987. This was effectuated in 1993. The purpose of these guidelines is not only to improve immigrants' access to jobs and labour market mobility, but also, if possible, to reduce the numbers leaving the labour market through dismissal. The main idea is that employment office managers should actually apply the principle of seniority and the principle of proportionality (whereby the ethnic composition of the population is reflected in that of the workforce). Minorities often come in for unduly harsh treatment when dismissed.

(h) Employment agencies

112. The Minister of Social Affairs and Employment has also financed and supervised research into the operation of a code of conduct designed to prevent discrimination in commercial employment agencies. Under the new Employment Act, licensed agencies must offer their services equally to all when negotiating employment on behalf of third parties or when offering jobs. The explanatory memorandum to the Act states that this requirement is to be interpreted as an anti-discrimination measure.

113. Unemployment amongst minorities remains high (table 1): on average, 25 per cent of working-age immigrants are unemployed, almost four times the national average. Turks and Moroccans are particularly badly hit. The number of working-age immigrants is rapidly increasing, partly because of a sharp rise in the number of school leavers and a new wave of immigrants entering the country to reunite or start families.

Table 1. Population aged 15-64 years according to labour position and ethnicity, 1990-1995

	1995			Change 1990-1995			Change 1990-1995(%)			1990			1995		
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
Population	x 1 000 persons														
Indigenous population	4 764	4 627	9 391	64	37	101	1	1	1						
Immigrants	565	542	1 107	83	86	169	17	19	18						
Target group minorities	247	238	485	27	41	68	12	21	16						
Turks/Moroccans	138	116	254	16	17	33	13	17	15						
Surin./Antill./Arub.	109	122	231	11	24	35	11	24	18						
Other immigrants	318	304	622	56	45	101	21	17	19						
Total	5 329	5 169	10 498	147	123	270	3	2	3						
Labour force										gross participation %					
Indigenous population	3 687	2 299	5 986	145	278	423	4	14	8	75	44	60	77	50	64
Immigrants	380	230	610	57	54	111	18	30	22	67	39	53	67	42	55
Target group minorities	162	91	252	29	23	51	21	34	25	61	35	48	66	38	52
Turks/Moroccans	83	27	109	10	5	13	13	21	14	60	23	43	60	23	43
Surin./Antill./Arub.	79	64	143	19	18	37	31	40	35	61	47	54	72	52	62
Other immigrants	218	140	358	28	32	60	15	29	20	72	42	57	69	46	58
Total	4 067	2 529	6 596	202	331	533	5	15	9	75	44	59	76	49	63

Table 1. (continued)

	1995			Change 1990-1995			Change 1990-1995(%)			1990			1995		
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
Working population	x 1 000 persons									net participation %					
Indigenous population	3 507	2 067	5 574	94	246	341	3	14	7	73	40	56	74	45	59
Immigrants	307	182	489	34	45	78	12	32	19	57	30	44	54	34	44
Target group minorities	121	69	190	20	21	41	20	44	28	46	24	36	49	29	39
Turks/Moroccans	58	17	75	6	3	9	11	18	13	43	15	30	42	15	30
Surin./Antill./Arub.	63	52	115	14	18	33	29	55	40	50	34	42	58	43	50
Other immigrants	186	113	299	14	24	37	8	26	14	66	35	50	58	37	48
Total	3 814	2 249	6 063	128	291	419	3	15	7	71	39	55	72	44	58
Unemploymend population										unemployment as % of labour force					
Indigenous population	179	232	412	50	31	82	38	16	25	3.7	9.9	5.9	4.9	10.1	6.9
Immigrants	73	48	122	23	9	33	47	23	37	15.4	22.1	17.8	19.2	20.9	20.0
Target group minorities	41	22	63	8	2	10	26	9	19	24.5	29.6	26.2	25.3	24.2	25.0
Turks/Moroccans	25	10	35	4	2	6	18	25	20	29	36	31	30	37	32
Surin./Antill./Arub.	16	12	28	5	0	4	40	-1	19	19	27	22	20	19	20
Other immigrants	32	27	59	15	8	23	86	43	64	9	17	12	15	19	16
Total	253	281	533	74	41	114	41	17	27	4.6	10.9	6.9	6.2	11.1	8.1

Target group minorities = Turks, Moroccans, Surinamese, Antilleans and Arubans.
Gross participation = labour force in % of the population aged 15-64 years. Labour force = persons who work for at least 12 hours a week (working population) + persons who are directly available for and are actively seeking a job for at least 12 hours a week (unemployed population).
Net participation = working people in % of the population aged 15-64 years.
Unemployment percentage = unemployed people in % of the labour force aged 15-64 years.

Source: Ministry of Social Affairs and Employment, based on the "Labour Force Survey" of the Central Statistical Office.

114. While the number of immigrants in work grew by 7 per cent between 1988 and 1989, employment opportunities increased over the same period by 8 per cent. The growing demand for better-qualified staff does not favour immigrants, who generally have a low level of education. The proportion of immigrants without qualifications is two to three times higher than that of the indigenous population. The take-up rate for education and work experience among ethnic minorities is still below average.

115. As well as improving the position of ethnic minorities from the point of view of both substantive and procedural law, measures to combat discrimination continue to be an important component of integration policy. Research has shown that intentional and unintentional discrimination is still one reason for minorities' low rate of participation in the labour market.

(i) Contract compliance

116. The Ministry of Social Affairs and Employment has explored the legal options for using contract compliance as an instrument to encourage companies to employ immigrants, as well as the political desirability of such a measure. Contract compliance means the inclusion in civil contracts of a provision requiring the contracting company to employ a certain proportion of ethnic minority workers. The Government's position on this, as stated to parliament in January 1991 (Lower House, 1990-1991 Session, 21 800 XV, No. 57), can be summed up as follows:

(a) With regard to licences, the Government sees no possibility of imposing additional requirements regarding the employment of immigrants;

(b) With regard to grants, the regulations would need to be designed so as to modify the operation of the labour market, taking account of proportionality requirements. The Government considers that the most obvious, straightforward approach is to establish a link between the disadvantaged position of minorities and labour market legislation;

(c) In government contracts, the imposition of additional requirements in the form of affirmative action is legally permissible in principle, provided strict conditions are met. However, after considering the broader context, particularly the approach advocated by the Joint Industrial Labour Council, the Government saw no reason to introduce contract compliance.

(j) Intercultural management

117. There is currently a growing perception of the increasing need to organize intercultural management courses in small businesses. This category of businesses still does not employ many members of ethnic minorities. Reasons for this include unfamiliarity with employees from ethnic minorities, and recruitment and selection criteria with an unintentional cultural bias which place ethnic minorities at a disadvantage. The Government provides support for initiatives aimed at developing a method which can compensate for various mutually reinforcing adverse factors such as lack of skills, discrimination and inadequate communication. Efforts are also being made

to establish a network which will allow a transfer of knowledge between businesses and the institutions which apply the intercultural management instrument in practice.

(k) Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants

118. The aim of the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants is to influence the demand side of the labour market. The Act can help to ensure that agreements between employers and unions concerning proportional labour market participation by minorities (the Joint Industrial Labour Council's 1990-1996 minorities agreement and the resulting collective labour agreements on employment and training of minorities) become a fixed part of personnel policies and are no longer left to the individual employer's discretion. The Act also provides a standardized, and thus comparable, method of determining the progress achieved. To this end, it lays down three specific requirements for businesses employing more than 35 people: they must keep a separate personnel register (showing the proportion of members of ethnic minorities on their staff); they must draw up a public annual report (including details of the personnel register, a comparison with the proportion of members of ethnic minorities in the general working population, and conclusions); and they must draw up an internal work plan in consultation with the works council (indicating the situation in the company with regard to personnel management policy and the employment climate for immigrants, the targets the company has set itself, and details of what the company will do to achieve a fair proportion of employees from ethnic minorities). The Act will be evaluated in October 1996.

119. In the health care and social welfare sector, a pilot study will be carried out to determine how implementation of the Act can be improved by supporting a representative number of institutions in carrying out the prescribed registration. The results of this study will be discussed, in particular, at two seminars attended by representatives of care institutions. In the welfare sector, the "interculturalization" of welfare institutions will continue to be monitored and encouraged. The exchange of knowledge and products in the field of intercultural management with international institutions will be encouraged. The relevant government departments will also work together to introduce the concept of intercultural management in the police and the army.

120. A paper entitled "Caring for Employment" was submitted to parliament on 31 May 1995. This paper sets out the Government's views on labour market policy in the health care and social welfare sector. The emergence of a multicultural society is seen as one of the most important developments affecting the labour market in that sector, which in recent years has done a great deal to recruit and retain employees from ethnic minorities. Agreements have been reached on the recruitment of 3,000 members of ethnic minorities to work in intramural health care, and a further 800 in homes for the elderly, over the period 1993-1997. The approach here is determined by a combination of factors (social responsibility, the nature of the care provided, and labour market trends).

121. Although some immigrants enter the health care and social welfare sector through regular channels, additional efforts remain necessary. The sectoral funds provided by employers and unions (with a grant from the Ministry of Health, Welfare and Sport) play an important part here. Employers and unions have agreed on intake targets, developed various instruments and financed a number of projects. In recent years at least 100 projects have been carried out; of these, 47 were still running in mid-1994, with some 1,550 immigrants taking part. The target agreed by employers and unions in the intramural sector (an intake of 950 people a year from 1993 onwards) has so far been achieved. The importance of intercultural management in helping to cope with diversity and retain immigrants within the sector is also increasingly understood. Here, too, various instruments specifically aimed at health care and social service institutions have been developed in recent years.

122. The Temporary Support Centre for Ethnic Minority Employees in the Health Care and Social Welfare Sector (TOPAZ) was set up in 1994. TOPAZ provides support for national, regional and local bodies in developing methodology, drawing up work plans and collecting data. In this connection, an important task is identifying the supply of ethnic minority workers. Another of TOPAZ's tasks is to encourage networking.

123. A project to promote the employment of immigrant woman in child care was started in 1993. The aim of the project is to recruit 1,250 new ethnic minority employees for the child care sector by 1996. The main features of the project are information, training and practical supervision.

9. Article 5 (e) (iii) - Housing policy

(a) General

124. The Ministry of Housing, Spatial Planning and the Environment has always avoided a policy based on categorization (i.e. specific regulations and budgets). Instead, it has aimed to create appropriate conditions and to ensure that the policy pursued is the same as it is for the indigenous population. This applies to all regulations relating to housing, especially housing allocation and individual rent subsidy.

125. The basis for this policy was laid down in 1983 by the State Secretary for Housing, Spatial Planning and the Environment in a circular on housing for minorities (MG 83-16, revised by circular MG 88-33). This circular drew the attention of local authorities and housing associations to a number of policies which they should take into account. These policies concern equal treatment in housing allocation, avoidance of concentration or dispersion policies that work to the disadvantage of minorities (owing to longer waiting times, reduced choice, etc.), uniform qualification for housing when families are reunited, and involvement of minorities in housing policy.

126. A detailed report entitled "Report on Housing for Minorities", mainly based on an earlier report entitled "Minorities and housing: background, developments from 1982 to 1990, and prospects for the 1990s" which was published in 1993 by the Social and Cultural Planning Office, was submitted

to parliament by the State Secretary for Housing, Spatial Planning and the Environment in September 1993. The main conclusions of this document were as follows:

(a) Although immigrants' average income level deteriorated significantly during the 1980s, their average housing situation substantially improved;

(b) However, the speed of this improvement is not the same for all groups. The housing situation of immigrants originating from Suriname, the Netherlands Antilles and southern Europe (about 50 per cent of the ethnic minority population) has almost reached the level of Dutch households with comparable socio-economic characteristics. For Turks and Moroccans (about 40 per cent of the ethnic minority population), however, the housing situation has not yet reached that level. In general these groups have large, though decreasing, households (Turks 3.75 people per household, Moroccans 3.99 per household, as against 2.60 for indigenous Dutch households - 1990 figures), and affordable large dwellings are relatively scarce. On the other hand, these groups are less willing to spend a substantial proportion of their income on housing (although the proportion is increasing);

(c) Eighty-five per cent of the ethnic minority population live in public rented housing. Home ownership among immigrants is very limited, owing to their below-average income. However, they no longer live in substandard housing (mainly in the private rental sector), as was often the case up to the 1970s;

(d) The number of immigrant households receiving individual rent subsidy has increased substantially, especially among Turks and Moroccans: from 6 per cent in 1982 to 30 per cent in 1990;

(e) In spite of these developments, and the gradual improvement in the housing situation of immigrants, the future is not altogether encouraging. Further improvement will largely depend on immigrants' chances of maintaining or improving their socio-economic position.

127. During the last few years the focus of both public opinion and public policy has increasingly been on the geographical aspects of immigrant housing, particularly in view of the difficulties encountered in some city areas. About 60 per cent of all immigrants live in cities with more than 100,000 inhabitants (45 per cent in Amsterdam, Rotterdam, The Hague and Utrecht). Within these cities they are mainly concentrated in districts where rents are low. Such concentration is not, however, confined to immigrants. They share these areas with lower-income Dutch citizens. The prospect of a permanent division of urban society into lower-income and higher-income areas is generally considered to be undesirable by both local authorities and the central Government. However, this problem cannot be solved by housing policy alone.

128. Three decades of substantial urban renewal have largely improved the physical conditions in the older parts of the cities, but social conditions

cannot be altered by such measures. That will require an integrated approach, involving employment, education, urban renewal, social regeneration, measures to increase safety, community building, and so on. In this connection the Netherlands Government has launched a broadly-based project to combat urban problems in general. A complicating factor is that many attribute "urban decay" to the influx of immigrants. Though this is essentially a socio-economic problem, the explanation in terms of ethnic minorities has unfortunately tended to predominate.

129. The main way in which housing policy can help solve this problem is by encouraging local authorities, housing associations and private investors to differentiate the housing supply. This means building more expensive dwellings in areas with predominantly low-cost dwellings and at the same time an appropriate number of lower-priced dwellings on new housing estates. If this policy proves successful - in addition to sufficient funding, it also necessitates cooperation by the various groups involved - it will not solve the problems of unemployment, deprivation and discrimination, but it may prevent or counteract the development of urban "no-go areas" - some would say ghettos - where decay, impoverishment, misery and deprivation tend to become permanent features.

(b) The Caravan Act

130. Itinerants should be treated like all other Dutch citizens. However, the present Caravan Act, which dates from 1968, is no longer in keeping with current housing policy, and is nowadays considered to have (admittedly unintentional) discriminatory effects: it places itinerants in an exceptional position, and simultaneously excludes the great majority of the Dutch population. The principle of family ties, on which the Caravan Act is based, prolongs itinerants' social deprivation, prevents them from enjoying equal rights and assuming equal obligations, and thus makes it more difficult for them to participate in society on an equal basis. The lawfulness of the Act has, however, not been called into question by either Dutch or international courts.

131. The Caravan Act is therefore due to be withdrawn with effect from 1 January 1997. This means that people other than actual itinerants will also be able to apply for a licence to park their caravans on caravan sites. A caravan can be exchanged for a fixed dwelling, and vice versa. To guarantee the right of existing itinerants to keep a place on a caravan site if they move away, a right of preference will be introduced into the Housing Act. This will supersede the aforementioned principle of family ties.

132. As mentioned under article 2, policy on itinerants was evaluated in 1995 and the results of this evaluation are set out in a report entitled "Policy on itinerants, 20 years down the road". This report shows that itinerants' housing conditions have improved considerably in terms of both quality and quantity. The scope for housing policy to further improve the social position of itinerants is therefore limited.

10. Article 5 (e) (iv)

(a) Welfare Act

133. Under an Act of Parliament dated 7 February 1991, amending the National Assistance Act in respect of social assistance for aliens (Bulletin of Acts and Decrees 1991, No. 65), aliens resident in the Netherlands and entitled to remain in the Netherlands under sections 9 and 10 of the Aliens Act were placed on the same footing as Dutch nationals. Social assistance is also available to anyone not entitled to remain in the Netherlands if the local police chief makes a written statement to the local council that (a) the alien concerned has reported to him as required by the Aliens Act; (b) he can only be deported from the Netherlands by order, the said order having to his knowledge been given; and (c) the execution of such an order has been temporarily stayed on legal grounds or by a decision of the competent authorities or pursuant to authority or a court decision.

(b) Right to health care

134. In 1995 the Netherlands Government informed parliament of its intended policy in this area in a policy memorandum on health care in a multicultural society. The aim of health care policy in a multicultural society is to respond appropriately to the relatively poor state of health and specific health problems of members of ethnic minorities living in the Netherlands. Government policy in this area is aimed at ensuring that health care is equally available to all. In principle, the extent to which ethnic minority patients are integrated into Dutch society is irrelevant. They are entitled to appropriate assistance under all circumstances.

135. As regards immigrants' relatively poor state of health and specific health problems, the greatest amount of available information concerns Turks and, to a lesser extent, Moroccans. Considerably less information is available concerning the Surinamese and Antillean population. A health survey of the Turkish population reveals that, according to all the health indicators used (assessment of own health, chronic conditions, medical symptoms, obesity, and non-chronic health problems), their state of health is considerably worse than that of the indigenous Dutch population. For example, 33 per cent of Turks suffer from a chronic condition, as against 25 per cent of Dutch people. The standardized mortality rate is about 23 per cent higher for Turks than for Dutch people. The proportion of occupationally disabled Turks aged 16 or older is high (11.9 per cent as against 3 per cent of the reweighted Dutch population). Seventy-eight per cent of Turks consult their family doctor each year, as against 71 per cent of Dutch people. On the basis of data concerning use of services, it may be concluded that the relationship between needing help and actually seeking it is very different among the Turkish and the Dutch population (and that members of the Turkish population do not seek help often enough). This is an important factor to be taken into account when determining future policy. The correlation between state of health and socio-economic position is about the same for Turks as for Dutch people, but Turks are considerably less healthy at every level. If the differences in socio-economic position between the Turkish and the indigenous Dutch population are cancelled out, this does not eliminate the observed differences in their respective states of health. Nor should the significance of cultural

differences in combination with migration be forgotten. Although there has been less research among Moroccan immigrants than among Turks, the available data suggests that their health situation is comparable.

136. The standardized mortality rate for the Surinamese is about 20 per cent higher, and for Antilleans it is slightly higher, than for the Netherlands as a whole. The number of reported health problems among the Surinamese population is slightly higher than for Dutch people. The state of health of Antilleans is probably not very different from that of Dutch people.

137. As indicated above, there are considerable gaps in the available knowledge concerning disease and mortality in the ethnic minority population. In order to fill these gaps, a project has been launched in cooperation with the Rotterdam city health service in order to allow objective identification and registration on the basis of ethnic origin in a number of important areas of public health. At the same time, a health survey of the Moroccan population is being carried out in cooperation with the health services in various cities. The first results will be available in 1996.

138. A number of projects will be launched this year to improve the quality of mental health care for immigrants living in cities. The aims of these projects include encouraging networking with other services which are of importance to people, and eliminating bottlenecks in the provision of services. Experience in Amsterdam has shown that such projects are of particular value to young people. The experience obtained here can serve as a model for mental health services elsewhere.

(c) Social services

139. Young members of ethnic minorities receive special attention from youth care services. The Institute for Multicultural Development (FORUM), the Netherlands Institute for Care and Welfare (NIZW) and the employers' organization for the health and welfare sector (VOG) are currently drawing up three projects to determine how youth care services can best cater to a client population which is increasingly made up of young immigrants. These projects are based on intercultural group work in residential or semi-residential institutions, contact with ethnic minority parents, and adaptation of home training schemes to the needs of ethnic minority families.

140. In developing and introducing quality services, attention will be paid to adapting diagnostic instruments to the needs of the target group and introducing intercultural management methods.

(d) Elderly immigrants

141. There is a growing realization that elderly immigrants are a particularly deprived and socially isolated group. The first generation of immigrants to grow old in the Netherlands is particularly at risk of becoming marginalized. A separate integration policy for elderly immigrants would be relatively modest in scope and would only be needed for a limited period of time. Full integration of elderly immigrants into Dutch society is difficult to achieve. In the past, many of them failed to think seriously about what growing old in the Netherlands would involve. The dilemma of whether to stay

in the Netherlands or return home - a particularly acute problem among immigrants from Mediterranean countries - is an important factor here. However, even immigrants who realize that they will be staying in the Netherlands permanently are at first inclined to turn to fellow immigrants for help and support. This is particularly true of elderly immigrants who speak little or no Dutch. For those whose education ended several decades ago, full integration as the sole policy goal is hardly an option. This means that policy on elderly immigrants should include measures which are not specifically aimed at full integration. Such measures should focus on the provision of social and other services, housing (or admission to an intramural institution), and measures to encourage social participation.

142. A combination of problems on both the demand and the supply side has meant that social services have remained relatively inaccessible to elderly immigrants. Measures to improve access will therefore need to be aimed at both the demand and the supply side. The focal point of this policy is the "Elderly immigrants and social services" scheme set up by NIZW. The scheme consists of four complementary components: identification of problem areas, development of methodology, information, and improvement of expertise. The goal is to develop suitable methods for working with elderly immigrants and on their behalf. The scheme is aimed at elderly immigrants, their organizations, and health care, social service and welfare institutions.

143. The "identification of problem areas" component, which produced two documents in 1993, is the basis for the other three components. A report on specially adapted services for elderly immigrants in the United Kingdom and a survey of methods for working with immigrants in the Netherlands and ways in which they can be adapted to the needs of elderly immigrants appeared in 1995.

144. The "development of methodology" component focuses on improving access on the supply side. In order to support this component, a self-evaluation method has been developed to allow the projects carried out at various locations to be analysed and evaluated. The projects began in 1994.

145. As regards the "information" component, a procedure has been developed for informing elderly immigrants about housing, health care and social services, and welfare. This procedure is now available through the NIZW for work involving Turkish, Moroccan, Chinese, Moluccan, Surinamese, southern European, Antillean and Aruban immigrants.

146. As regards "improvement of expertise" among professionals and volunteers, a survey of existing training facilities will be carried out in 1995. A decision can then be made as to whether, and if so on what organizational basis, specific improvement of expertise is required.

147. Over the next few years the Ministry of Health, Welfare and Sport will provide support for integrated local projects to determine the extent to which specific services are required. The projects will be "integrated" in the sense not only that attention will be paid to both the demand and the supply side, but also that the authorities concerned, local providers and local organizations of elderly immigrants will share responsibility for the project. Particular attention will be paid to ensuring that supply is more fully geared

to demand. As regards multicultural health care and social services, the provincial authorities will be required to encourage and facilitate new developments, particularly in homes for the elderly and nursing homes. The entire process, and the results of the various projects, will be evaluated.

148. In addition to these large-scale activities which form part of a single scheme, support will be provided for separate, smaller projects such as day care for elderly Surinamese (and evaluation of these services), measures to ensure that the available information can be used throughout the country, and a publication on community care by and for immigrants. A project to train members of ethnic minorities as health care and social service counsellors is currently in preparation.

(e) Disabled immigrants

149. Increasing immigration has meant, among other things, that care of the disabled increasingly involves immigrants, particularly families with disabled children. The paper entitled "Policy on the Disabled: 1993 Revised List of Key Issues", published by the Interministerial Steering Committee on Policy for the Disabled (ISG), notes that no satisfactory answer can currently be given to the question of whether disabled people in minority groups have sufficient access to services for the disabled, since data have not been systematically collected on the subject. The ministry responsible for coordinating policy on the disabled (the Ministry of Health, Welfare and Sport) has now therefore commissioned a study to determine the extent to which disabled immigrants make use of services for the disabled. The results of this study will be available in mid-1995. The NIZW has also been asked to pay particular attention to disabled immigrants in its plan of action for 1995.

150. The Consultative Committee on the Disabled of the Ministry of Health, Welfare and Sport has set up a working group on disabled immigrants. Its task is to work out - particularly on the basis of the research results mentioned earlier - specific details of the "Care of disabled immigrants" scheme referred to under the heading "self-reliance" in the policy document entitled "To the best of their ability" (1995-1998).

11. Article 5 (e) (v) - Policy on education

(a) Grants to educational establishments

151. On 11 September 1990, the upper house of parliament voted against a bill on grants to educational and training establishments submitted by the political parties in the lower house. The bill was rejected because it was not supported by political parties which were only represented in the upper house. The rejection of the bill means that the existing situation, in which grants are provided by ministerial regulation, will continue. As regards ending grants to establishments associated with political parties which hold racist views, the position of the Netherlands Government (as set out in previous reports) remains unchanged - namely that, in a democratic country such as the Netherlands, a decision to end a grant can only be taken if the establishment concerned has been banned by court order on the grounds that its aims and activities are a threat to public order.

152. On this point there was no difference of opinion between the Government and parliament when the bill was going through parliament.

(b) Primary education

153. Section 8, subsection 3, of the Primary Education Act states that education is provided on the assumption (among other things) that pupils are growing up in a multicultural society. In this connection, the Ministry of Education, Culture and Science and the Ministry of Health, Welfare and Sport set up a national project group on intercultural education (ICO) in autumn 1994. The purpose of the ICO is to give an additional boost to intercultural education, in particular by promoting measures to combat discrimination and racism.

154. In 1995 the ICO set out its terms of reference in a paper entitled "Intercultural education: an added boost for schools and the community". These terms of reference were the starting point for the ICO's 1995-1996 plan of action, which lists specific activities aimed at achieving the aforementioned goals (information, improvement of expertise, teaching resources, and cooperation between educational and other relevant establishments in the field of intercultural education).

155. In order to combat educational deprivation, local authorities will be given new powers in this area with effect from 1 August 1997 (in the context of local education policy). Each local authority will be required to draw up a four-year scheme to combat educational deprivation, and can obtain targeted grants for this purpose. Schools receiving such grants can use them in accordance with the local authority scheme.

156. These proposals are set out in the "Policies of Local Authorities on Educational Deprivation" bill. This bill includes powers which will strengthen the position of local authorities in matters of local education policy. Local authorities will become responsible for ensuring a coordinated local policy on educational deprivation. Existing sectoral resources and part of the resources available for the teaching of Dutch as a second language will be decentralized to local authorities in the form of specific grants with effect from 1 August 1997. Such resources will be used in consultation with the schools concerned, in a manner to be set out in the local authority's scheme to combat educational deprivation.

(c) Secondary education

157. Anyone who has received primary (or comparable) education is entitled to secondary education.

158. The Secondary Education Act states that the curriculum must indicate the manner in which attention will be paid to the fact that pupils are growing up in a multicultural society. Intercultural education is therefore seen not as a separate school subject, but as a principle which permeates the whole of education.

159. Secondary school pupils may receive mother tongue education. Schools can obtain additional staff under a special scheme for this purpose. Arabic

and Turkish can now be taken as examination subjects, including by Dutch-speaking pupils. This facility will be extended to other minority languages.

160. Education must adapt to a changing society. Now that the Netherlands has become a multicultural society, all education must be multicultural, even in schools which are only attended by indigenous Dutch pupils. Pupils must learn to deal with similarities and differences based on ethnic and cultural characteristics, in order to function in Dutch society on an equal, shared basis.

161. Schools often have unique facilities for intercultural education (lessons, teaching resources, projects, pupil counselling, etc.) in order to promote acceptance of cultural variety. Moreover, part of the educational task of schools is to combat ethnic and other prejudices, discrimination and racism, in cooperation with numerous other institutions, and schools are actively encouraged to do so.

162. The project group on intercultural education (set up jointly by the Ministry of Education, Culture and Science and the Ministry of Health, Welfare and Sport in 1994) has an advisory, intermediary task in this area. The project group is thus involved in the incorporation of intercultural education in the attainment targets for basic secondary education (which are currently being reviewed). The project group is also involved in current policy developments - subject combinations, independent study - in Dutch secondary education. As a result, intercultural education should be reflected in attainment targets and syllabuses from the very outset.

163. In connection with intercultural education, the Ministry of Education, Culture and Science (where necessary in cooperation with the Ministry of Health, Welfare and Sport) has subsidized a number of projects and organizations which support and implement policy aimed at making intercultural education a permanent part of regular education (the Anne Frank Foundation, ARiC, Nederland bekent Kleur, Pop Against Racism, School zonder Racisme, etc.) As a logical consequence of this, intercultural education is now also included in teacher training and further training courses.

(d) Higher education

164. There are two main branches of higher education in the Netherlands: university education and higher professional education. In 1994 some 183,000 students attended the country's thirteen universities, and 269,000 students attended its 70 colleges of higher professional education.

165. In the Netherlands, there is no difference between public and private higher educational establishments as regards government funding, the fees charged or the quality of the education provided. The only difference is in the governing body.

166. Universities and colleges of higher professional education are open to everyone with an appropriate Dutch secondary-school certificate. The Netherlands' diversified system of secondary education, with its numerous

streams and levels and its variety of certificates, is considered to ensure adequate selection. In some cases, however, the right of admission to higher education is restricted. Some courses have what is known as a numerus fixus: if more students seek admission than the course can accommodate, the Government can limit the number of admissions. Employment prospects are also taken into account in such cases.

167. In the Netherlands, higher educational establishments are obliged to admit any student with an appropriate secondary-school certificate. Secondary-school examinations are regulated by the central Government. Higher educational establishments are not allowed to set their own entrance examinations. About 30 per cent of school leavers have a certificate which allows access to higher education, another 30 per cent attain the standard required for senior secondary vocational education, a further 30 per cent attain the standard required for junior secondary vocational education, and 10 per cent leave secondary school without any qualifications. Of the 30 per cent of school leavers who qualify for higher education, some 64 per cent (19 per cent of all school leavers) actually go on to university or college; another 25 per cent receive further education at a lower level, and about 11 per cent do not receive any further education at all.

168. The fees for higher education are the same at all universities and higher professional education institutes. They are set by the central Government (currently about $1,000 for full-time and $750 for part-time courses). Higher educational establishments are not allowed to charge higher fees than this.

169. All students under the age of 27 are entitled to a basic monthly grant of $300. Depending on parental income, an additional grant may be obtained from the Government. First of all, students can obtain a loan of up to $145 a month which they have to pay back. Students whose parents are in certain income groups can obtain an additional grant of $100 dollars a month which does not have to be repaid. In 1994 there was a political debate about the cost of student grants; $2,500 million are currently spent on grants for students in higher professional education (as against $6,500 million for all higher education and $33,000 million for education as a whole).

(e) Policy on ethnic minorities in higher education

170. The general position of ethnic minorities is a political issue. In the case of higher education, it is desirable - and socially necessary - for everyone to have equal access to higher education irrespective of ethnic background, gender, religion, etc. However, some groups in Dutch society still have restricted access to higher education. Ethnic minorities are under-represented in all areas of higher education. An estimated 2 per cent of the total student population in higher education (universities and higher professional colleges) come from ethnic minorities. Participation by ethnic minorities is higher in higher professional education than in universities.

171. Because students from ethnic minorities have different backgrounds, they encounter different problems. For instance, while some have a Dutch certificate of secondary education, others only have one from a foreign country. This can impede access to higher education.

172. In June 1993, political attention to this issue resulted in the publication of a policy memorandum entitled "Access by ethnic minorities to higher education". The problem was also brought to the fore by higher educational establishments with large numbers of ethnic minority students. The memorandum discussed the barriers faced by students from ethnic minorities when entering higher education, during their studies, and when attempting to find employment after graduating. It also proposed a set of policy measures designed to improve the position of such students.

173. Problems encountered when *entering* higher education mostly involve not having the right information about opportunities in higher education (the types of course available, the qualifications required, and employment prospects after graduation). In the case of students from ethnic minorities, more attention needs to be paid to Dutch language skills, parental involvement, the image of the different courses, and employment prospects. The whole issue of which course to choose and how to advise both students and parents properly is thus very important.

174. Problems which students encounter *during* their studies are mainly of an educational nature (organization of the course, competence of teaching staff, planning, etc.). The same types of problems are encountered by indigenous Dutch students. However, in the case of students from ethnic minorities, the situation may be made worse by language difficulties, social problems etc. As a result, students from ethnic minorities may feel socially isolated.

175. Problems encountered at the time of *graduation* and preparation for employment mostly relate to the period of practical training. This is an essential part of all higher professional courses, because it gives students an opportunity to explore the various aspects of the labour market over a period of six to eight months.

176. Higher educational establishments are required to provide all students with a good education. More effort therefore needs to be made in providing students from ethnic minorities with the necessary supervision. However, all such measures must be screened for stigmatizing features, so as to ensure that ethnic minority students are not treated as problem students.

177. Following publication of the memorandum, a number of agreements have been reached with higher educational establishments. The key points of these agreements are as follows:

(a) Greater efforts by educational establishments to improve participation by ethnic minorities. This means involving ethnic minority students in drawing up internal policy, for example through student organizations;

(b) Establishment of an expertise centre. The Expertise Centre for Foreign Students in Higher Education (ECHO) became operational in

January 1995. The aim of the Centre is to improve ethnic minority participation in higher education. Activities to this end can be divided into three stages: admission, study, and graduation. The Centre will provide models and instruments for use by higher educational establishments in implementing an active policy on intake and transfer;

(c) Earmarked funding for short-term projects in areas of relevance to the situation of ethnic minorities;

(d) An effective registration method to evaluate the entire procedure.

(f) Preparation for education

178. Since the early 1990s, the Netherlands Government has developed a policy on ethnic minority children aged up to 18. One aim of this policy is to prepare them more effectively for education, particularly through parental involvement. Another aim is to ensure that school-age children remain at school by involving parents in their education and by encouraging cooperation between educational and welfare establishments. To implement this policy, the Government is now developing various programmes and monitoring their quality at the implementation stage. These programmes are as follows:

(a) Head-start programmes for nursery-school ethnic minority children aged 4-6 and their mothers. These programmes (known as Opstap programmes) are designed to stimulate the child's cognitive development and to break down the social isolation which ethnic minority mothers often experience. At the same time, the educational impact of the programmes on the interaction between mother and child is considered very important. Similar programmes (known as Opstapje programmes) have been developed for ethnic minority children aged 2-4. The programmes are provided in the parents' main language. If parents can stimulate their child's linguistic development in their mother tongue, this will help the child to learn Dutch. The programmes are provided by ethnic minority women who speak the mothers' language and guide them in the use of the programme materials. By 1995, the number of local authorities providing Opstap or Opstapje programmes had risen to 100. Research into the educational performance of children who have taken part in these programmes shows that, in the opinion of teachers, children who have taken part in the programmes perform better than those who have not, and that they are more likely to do well at school (Met Op Stap meer kans, Averroes Foundation, 1995);

(b) The Overstap programme is intended for children aged 6 and over and their parents. Schools have found this an excellent way of involving parents in their children's learning process (particularly as regards reading) and getting them interested in education. Many schools have reported a 90 per cent level of parental involvement. In 1996 the number of children taking part in this programme will be increased to 10,000, in 300 schools. Research into the impact of the Overstap programme was completed in mid-1995. Children who had taken part in the programme were again found to do better than ones who had not. They scored significantly higher in reading comprehension tests and had a larger vocabulary;

(c) Experiments with the extended school day. Cultural, educational and sports facilities are being used in order to encourage extracurricular, informal learning and so particularly improve the prospects of ethnic minority children in both primary and secondary education. In this connection, programmes aimed at children of various ages have been set up in order to increase the knowledge and skills which they require in order to function effectively at school and in society. The basic approach here is to increase effective learning time (longer school hours) and to provide activities in such areas as the arts (music, dance and drama), sports, nature and the environment, science and technology. The aim of these extra facilities is to encourage informal learning (thereby complementing the home situation). Among other things, this is expected to stimulate the children's cognitive development, increase their self-confidence, and develop their extracurricular skills and their ability to handle the Dutch language effectively. The experiment with extended school days will be completed in mid-1996. The remaining period up to mid-1996 will be used, among other things, to describe the methodology and make it transferable.

179. Internationally there is increasing interest in the Netherlands Government's policy on ethnic minority children up to the age of 18. This is reflected, for example, in UNESCO's decision to choose the Averroes Foundation as its regional coordination centre for early childhood education.

F. Article 6

180. Victims of discrimination can apply to the civil courts for compensation for financial or non-financial damage. They can also join criminal proceedings as a third-party applicant for compensation. For a detailed discussion of these arrangements, see the core documents.

G. Article 7

1. Opinions regarding minorities

181. Since the 1980s, the Social and Cultural Planning Office (SCP) has carried out annual opinion polls to find out what the general public thinks about minorities (Sociocultural Research 1994: Opinions about Minorities). As can be seen from the following tables, the SCP's research has revealed an increasingly negative climate of opinion with regard to ethnic and other minorities. The factors measured include the social distance which respondents assume in relation to immigrants, as well as their inclination to discriminate. Social distance (acceptance of immigrants in one's own environment) turns out to be variable, with a slight tendency to increase. The situation is most sensitive in the case of housing.

182. People's inclination to discriminate also appears to be increasing. Although a large majority of people still would not discriminate on the basis of country of origin, an increasing proportion of respondents are inclined to give preference to indigenous Dutch people in housing and employment. Strikingly, a clear majority of people disapprove of affirmative action.

Table 2. Some views on ethnic minorities 1975-1993 (percentage of residents giving a valid reply) a/

	1978	1980	1985	1987	1989	1991	1992	1993
Would "not like it" or would "object" if people of a different race were one's next-door neighbours	24	25	22	22	20	23	23	24
Would "not like it" or would "object" if there were children of foreign workers or Surinamese in one's own children's class at school	-	10	10	9	10	12	11	-
Would "not like it" or would "object" if there were foreign workers or Surinamese among one's immediate colleagues at work	-	8	7	6	7	7	7	-
Finds the presence of people of a different nationality in one's everyday life objectionable						13	15	13
If confronted with two types of family when allocating an unoccupied dwelling during a housing shortage, would choose: b/								
A Dutch family in preference to a foreign worker's family	-	36	20	22	25	28	35	36
A Dutch family in preference to a Surinamese family	-	33	19	18	21	24	30	30
A white person in preference to someone with a different skin colour	-	16	9	11	13	15	17	16
A foreigner in preference to a Dutch person	40	33	22	20	18	22	24	24
A Surinamese in preference to a Dutch person	30	25	16	15	14	17	18	20

	1978	1980	1985	1987	1989	1991	1992	1993
Someone with a different skin colour in preference to a white person	14	14	10	10	10	13	12	13
If confronted with two otherwise equal employees, only one of whom can be promoted, would choose: b/								
A Dutch person in preference to a foreigner	30	30	18	17	17	19	21	21
A Dutch person in preference to a Surinamese	24	26	15	14	15	17	17	18
A white person in preference to someone with a different skin colour	15	15	9	10	11	13	13	13
Feels in general that there are too many people of a different nationality living in this country						45	48	49
Disapproves of priority ror foreigners in obtaining government jobs c/						55	56	58

Source: SCP, 1993 report on minorities.

a/ Approximately 1,800 respondents aged 16 to 74 per year.

b/ The great majority of respondents selected the answer "should make no difference".

c/ The question read: "Foreigners are more frequently unemployed than Dutch people. The Government is trying to remedy this by appointing more foreigners to positions in government departments. In certain circumstances they are given priority. To what extent do you approve or disapprove of this policy?"

Table 3. Opinions concerning immigrants, by age, level of education and size of locality, 1993 (percentage of numbers of respondents)

	Would not like people of a different race as next-door neighbours a/	Would give preference to a Dutch family when allocating a dwelling a/	Feels there are too many foreigners a/	Finds foreigners objectionable b/	Disapproves of affirmative action a/
All respondents c/	24	36	50	13	58
Age:					
16-29	19	36	41	13	60
30-44	18	31	45	12	56
45-59	29	37	54	13	58
60 or older	36	44	64	15	61
Level of education:					
Low	35	50	69	17	67
Average	24	38	52	14	58
High	14	21	29	8	49

Source: SCP, 1993 report on minorities.

a/ For wording of question, see table 2.

b/ The question read: "Some people dislike the opinions, habits and way of life of people who are different from themselves. Do you personally find the presence of people of a different nationality in your everyday life objectionable?"

c/ Approximately 1,900 respondents aged 16 or older.

2. Measures taken in the fields of education, culture and information with a view to combating racial discrimination

(a) Education

(i) The multicultural society programme

183. Shortly after taking office, the Netherlands Government decided to continue and, where possible, extend the multicultural society programme. Under this programme, the Ministry of Education, Culture and Science and the

Ministry of Health, Welfare and Sport provide support for various activities primarily aimed at young people, such as Nederland bekent Kleur, Pop Against Racism and School without Racism. Evidence that these projects fit in with young people's experience can be found in the high level of participation. This encourages young people, organizations and schools to carry out various activities on the theme "multicultural society" and "measures to combat discrimination".

184. The Province of North Brabant has adopted the "Schools without racism" approach. Seventeen support institutions in North Brabant have taken the initiative to combat xenophobia and racism in the province. These establishments feel it is high time for provincial institutions and authorities to adopt a clear policy in favour of a more tolerant society in which there is no place for racism and discrimination. In this connection they have drawn up a manifesto. Institutions and organizations which sign the manifesto are expected to take active measures to promote a multicultural society. This must be clearly reflected in policy and specific action. So far, 80 local authorities and 250 institutions have joined the campaign. In addition to the Ministry of Health, Welfare and Sport, the campaign is supported by the provincial government of North Brabant, which has undertaken to adopt policies aimed at combating racism and discrimination in the province. There will be a newsletter and a data bank for the registration of activities and projects and the exchange of information designed to promote a multicultural society. There will also be an annual event at which interesting, new or outstanding projects can be presented. A different sector of the public will be targeted each year. Where possible, an attempt will be made to incorporate these projects into existing structures.

185. In view of the positive impact of this campaign, activities which send clear signals to broad sectors of the public will continue to receive limited funding in 1996. Our multicultural society will operate more effectively for both ethnic minorities and the indigenous population if prejudice, discrimination and racism are given no chance to take root.

186. With regard to anti-discrimination and opinion-forming measures, activities carried out by the NGOs Dutch Anti-Discrimination Council and the Anti-Racism Information Centre will also receive support. In the welfare, educational and cultural sectors, grants will be available for projects designed to eliminate prejudice and promote tolerance. The publication of a special school diary, pilot projects in schools organized by the Institute for Politics and the Public, the "Reispaleis" exhibition at the Museum of Ethnography in Rotterdam, and an anti-discrimination project for schools in the Province of Zeeland are among the initiatives supported in this connection.

187. Following the evaluation (which has been submitted to parliament) of the Government's "Youth Information Policy: the Second World War to the Present Day", the incentive period was officially ended in December 1995. However, this does not mean the end of the policy. It will remain necessary to inform young people about the Second World War even after 1995, but youth information policy will need to be more firmly anchored in overall policy to combat racism, discrimination and prejudice. Today's multicultural society and the problems that it entailed were hardly taken into account when the policy was

launched back in 1987. Now, however, the concept of a multicultural society is an essential element of present-day life. The evaluation also revealed that the current policy of grants for national war and resistance museums and remembrance centres needs to be reappraised. Discussions have taken place with the museums and centres concerned regarding plans for a new system of grants. In the course of 1995, parliament will be informed of the Government's future plans regarding youth information policy and the grants policy for war and resistance museums and remembrance centres.

188. In cooperation with the field, there are currently a number of projects to convert volunteer organizations into multicultural organizations (with regard not only to working procedures, but also to the ethnic composition of committees, the membership, etc.). Certain aspects of intercultural management may again prove useful here. In 1996, projects to help people of differing ethnic origin cooperate effectively in their neighbourhood will be worked out in further detail. In the same year, a number of local authorities will assess, on the basis of practical experience, what conditions must be satisfied and how the results can be made more visible.

(ii) Education, information and awareness

189. Intercultural education remains vital at a time when children are growing up in a multicultural society. As a follow-up to the policy documents described in the eighth and ninth periodic reports, the Minister of Education, Culture and Science has reached an agreement with school boards and educational bodies on intercultural education in schools. Progress will be monitored closely, among other things through reports by school inspectors.

190. The central Government is encouraging the development of relevant inter-cultural teaching materials. Targeted grants will continue to be given to organizations (such as the Anne Frank Foundation) which oppose prejudice and discrimination.

191. Expertise among head teachers is being increased through schemes such as the "Education from a Multiethnic Perspective" project.

(iii) Educational priority policy

192. The Government's educational priority policy has been pursued just as vigorously during the period under review. Every school with the prescribed minimum number of children from minority groups is entitled to extra resources. In addition, areas with the greatest concentration of minority groups are the focus of an "area policy", in which schools, school authorities, and welfare services work together closely. Initial evaluations suggest that such cooperation at regional and local level has beneficial results.

193. A policy document on teaching minority languages and culture was published at the beginning of 1991. Participation at both primary and secondary levels continues to rise, from some 46,000 children in 1985 to around 60,000 in 1990. Key features of the policy document are greater emphasis on the language component, and greater help in learning Dutch. These lessons will form part of the school work plan. Schools will be in a better

position to adopt an integrated approach to languages, and children aged four to eight can prepare for primary school in either of two languages. At secondary school, pupils can now take final examinations in Turkish and Arabic. The policy document also includes plans for other mother-tongue programmes, and for training and appointing more teachers from ethnic minority groups.

194. In 1990, most cities launched projects for the reception of newly arrived immigrant children. These involve up to a year of central teaching, during which pupils study Dutch intensively. The purpose of this is to minimize "functional illiteracy", which is relatively common amongst immigrant children. This will improve their chances of a successful school career and integration into society.

195. Education is the most important channel for integration as far as parents of ethnic minority children are concerned. Welfare policy plays a part in creating more opportunities for young immigrants in education. In order to improve young immigrants' school performance and facilitate their access to employment, attention is being paid (as part of educational priority policy) to activities and schemes aimed at pre-school and school-age children. The primary purpose of these is to enhance the educational climate in schools, in the home and in the community. The aim here is to encourage the acquisition of social and cognitive skills which will increase immigrant children's chances of success in society. Encouraging parents to behave in ways conducive to education is a key part of current and future activities in this area. Educational policy for ethnic minority children up to the age of 18 is discussed in detail under article 5.

(iv) Educational priority legislation and social renewal

196. Following a number of amendments, the Government's educational priority legislation was resubmitted to parliament in 1991. This legislation ensures that resources for the 70 educational priority areas will now be allocated on a statutory basis. In contrast to legislation submitted earlier, the emphasis is now on involving the competent authorities in schools and local government. This approach is in line with government policy, which is to ensure that resources which were previously allocated under a range of different regulations are now pooled at local level. This "social renewal" policy is intersectoral, involving cooperation between the education, welfare, and employment sectors. With its motto "people make the rules", the social renewal policy enables problems to be tackled more effectively at local and regional level. It also provides a suitable context for dealing with the threat of segregation and the emergence of all-black or all-white schools.

197. The trend towards segregation, which is also apparent in education, militates against efforts to integrate and to combat social selection. The intention is not to interfere with the freedom to provide education and parents' right to choose schools (which are guaranteed by the Constitution), but to limit segregation in schools as far as possible. Existing measures designed to favour schools with a large proportion of children from minority groups (by providing more teachers and resources) will be introduced at local level as part of the social renewal policy. The authorities in the four major

cities are being consulted on a new policy to support inter-ethnic primary schools which reflect the demographic composition of the areas they serve.

198. The various aspects of social renewal are in keeping with the philosophy set out in the new 1994 Social Welfare Act.

(b) Culture

(i) General

199. A solid sense of cultural identity is almost a prerequisite for dealing with others openly. This applies to Dutch people in their attitudes towards new cultures which they find around them, and it especially applies to migrants, who can only physically bring a small part of their culture with them, but at the same time can never entirely leave their cultural baggage behind. To encourage them to approach their new environment in an open, inquisitive manner, specific policy - extending over a rather longer period than was previously thought to be necessary - may be appropriate. The Netherlands Government therefore proposes to provide extra support for immigrants' artistic and cultural expression, in order not only to encourage members of ethnic minorities themselves, but also to enable others to become acquainted with a foreign culture which has taken root in their environment. If cultural experiences are to be shared, they must first of all be available and mutually accessible.

200. Confrontation between different cultures involves more than just getting to know and admiring each other's cultural expression and different cultural heritage and ideas. In cultures whose core has remained untouched by the dominant Western pattern, one is struck by the self-evident position of culture in everyday life. To the extent that cultural activities have been converted into a specialized, professionalized business, this has usually been confined to traditional arts. The function of culture in imparting meaning to life has been preserved more clearly, or in any case more demonstrably, and in a broader perspective.

201. The influence of ethnic minority cultures is gradually becoming more apparent in the programmes of subsidized cultural institutions. As so often happens, this development has begun with the work of unconventional young artists who are open to new impressions. Pop music, with its constantly changing, hybrid forms, has pointed the way. By interpreting and presenting cultural traditions, museums too have proved particularly successful at making the cultural heritage of both immigrant and indigenous groups more visible. However, this is only possible if such institutions are aware of their role in a changing society and can reflect this in their programmes more than was the case in the past. This means making additional efforts to increase the accessibility of museum exhibitions. An important task here is to update the product, in terms of both fixed arrangements and forms of transfer. Museums which perform a key function in presenting Dutch history and the specific character of Dutch culture, or which by the very nature of their collections are in a position to reveal details of other cultures, are particularly suitable vehicles for this purpose. Such museums have a social duty to make their exhibitions and activities accessible to broad groups of the general public, including ethnic minorities.

202. Specific measures are needed to ensure that promising immigrants have an opportunity to develop their talents. This is happening, for example, in the field of literature, with existing literary organizations showing increasing interest in the literary products of second- and third-generation immigrants. At the same time, libraries (either separately or in cooperation with other educational and cultural organizations) will increasingly be devoting attention to this area. The administrative organization and staffing of funds and subsidized cultural institutions will also have to reflect the intercultural nature of modern Dutch society.

203. Quotas and programming requirements are not the most effective instruments for achieving this goal. Incentive policies must focus on creating the right conditions for full ethnic minority cultural participation. Greater reference to the various cultures in the programmes of cultural institutions is a logical extension of the social orientation of the cultural sector.

(ii) Sport and ethnic minorities

204. In sports policy, efforts to integrate ethnic minorities have focused on measures to combat discrimination in sport and the elimination of barriers encountered by members of ethnic minorities wishing to practise sports and hold senior posts in the sports world.

205. The "sport and immigrants" policy was evaluated in 1995, starting with the "Sport is cool!" projects which were evaluated by the Netherlands Olympic Committee*Netherlands Sports Federation (NOC*NSF). These projects encourage immigrants from deprived neighbourhoods to take part in sports and to apply for senior posts. The evaluation revealed that the projects were operating better under the local authorities than they were within the national sports federations. However, a number of local authorities have displayed insufficient support for the specific demands of the project. New "Sport is cool!" projects will be subsidized and implemented on a different basis.

206. Secondly, the results of seven years of support from national sports promotion organizations were presented at an afternoon symposium on "Immigrants and sport" held on 30 March 1995. This support was provided by project staff who had received a specific grant for the purpose up to the end of 1994. From 1995 onwards, the support which they had previously provided was deemed to be provided by the relevant national organizations (NOC*NSF, Stichting Spel en Sport (SSS) and the countrywide organization Movement, Recreation and Games). Recommendations for follow-up policies were presented during the symposium, including maintenance of the current two-track policy. It was found that immigrants were more likely to attain senior administrative or technical posts in sectoral associations than elsewhere. However, participation through general sports facilities was preferred. The State Secretary for Health, Welfare and Cultural Affairs also called for maintenance of support for sectoral sports associations where necessary.

207. Thirdly, an external research bureau carried out an evaluation (entitled "Immigrants involved in sport") of both national and local policy so far and the practical experience obtained with various projects. This research was completed in mid-July 1995.

208. In addition to these evaluations, a number of projects are currently being implemented ("Sport is cool!" projects and activities aimed at ethnic minorities in connection with social regeneration projects in sport). An example is the "Football unlimited" project launched by the Royal Netherlands Football Association with SSS support. The aim of this project is to include street football in the extended school hours scheme, in order to promote greater social participation and encourage children in deprived neighbourhoods to join local football clubs. The project makes use of the role-model function of football idols.

209. A national working party will also look into the issue of sport for asylum seekers. Sports facilities will be made available to them as part of integration policy. In this way sport can become an attractive daily occupation and also help asylum seekers to adjust to society (as part of "phased integration").

210. The central Government grant for a project worker attached to the NOC*NSF in connection with anti-discrimination policy in sport was terminated in autumn 1995. The expertise and activities in this area had already become part of the joint plan of action drawn up in 1995 by the national sports promotion organizations (including NOC*NSF). The Ministry has made funds available to implement these activities (improvement of expertise among volunteers, and information).

211. The Council of Europe's Permanent Committee on Football Hooliganism has discussed the issue of discrimination in sport. The Committee has approved a document listing preventive, control and coordination measures aimed at football supporters. On the basis of the annual reports submitted by the member countries, the Committee will monitor measures to tackle discriminatory behaviour by football spectators. At the conference of Council of Europe sports ministers in Lisbon, agreement was reached (on the initiative of the Dutch State Secretary) on measures to combat discriminatory behaviour in sport. An international meeting will be held in the Netherlands in 1996 to work out a properly coordinated approach to the problem.

212. In cooperation with the NOC*NSF and the police, the Royal Netherlands Football Association has implemented most of the recommendations for action listed in the report entitled "Measures to combat discrimination at football grounds". The issue of discrimination is a regular part of training courses for football coaches and referees. The Association's guidelines for clubs have been tightened up. Measures to combat discriminatory behaviour are also a standard feature of projects aimed at supporters.

213. In 1995, the Federation of Supporters' Associations in the professional football sector launched a project in which newsletters and meetings were used to give supporters information and encourage them to oppose discrimination. These activities will continue in 1996 with funding from the Ministry.

214. The National Consultative Association of Sports Counsellors for Immigrants (LOSA) has proposed that the successful Amsterdam campaign "If racism wins, sport loses" should be extended to the rest of the country.

The Ministry has had consultations on the subject with the NOC*NSF, the Union of Local Authorities and the National Sports Coordinating Council. Once the extent of support for the project and its feasibility have been assessed, a decision will be made as to whether a national campaign should be launched.

(c) Information

215. The Netherlands does not have "State media" - except as regards government information - so much as "public" and "commercial" media. A paper entitled "Media and minorities" was published in 1991 by the Minister of Health, Welfare and Cultural Affairs (Tweede Kamer, 1990-1991, 22 166, No. 1). The media policy pursued by the Netherlands Government has traditionally been aimed at creating appropriate conditions rather than intervening directly in form and content (which is considered a matter for the media organizations themselves). Media policy aimed at combating prejudice and promoting mutual understanding between the various ethnic groups in Dutch society is likewise mainly geared to creating basic conditions which will enable ethnic minorities to have access to the media, particularly as regards programming, finances, administration and staffing. In this connection, the following measures were taken in the period 1990-1994.

216. In 1993 the Organization for Hindu Media and the Dutch Muslim Broadcasting Service were allotted broadcasting time on the public channels.

217. Under the amendments to the Media Act introduced on 28 April 1994 (Bulletin of Acts and Decrees, 385), the new Netherlands Programme Association (NPS) established on 1 January 1995 is legally required to devote 15 per cent of its television broadcasting time and 20 per cent of its radio broadcasting time to programmes about the multicultural society which are aimed at ethnic minority groups. At this stage, programmes in minority languages must form a substantial proportion of these programmes. Radio will be the main vehicle for daily information services in minority languages; on television the NPS will broadcast information programmes and, to an increasing extent, other types of programme (including drama productions dealing with the experience of ethnic minorities and aspects of the multicultural society, which will be broadcast by local ethnic minority channels as well as the NPS).

218. The other public channels have also indicated that they will endeavour to ensure that their programming and staffing policies do justice to the cultural, racial and linguistic variety of Dutch society. As regards staffing, the Ministry of Education, Culture and Science, the Netherlands Broadcasting Corporation, the Netherlands Radio World Service and the Organization for Consultation and Cooperation in Regional Broadcasting signed a statement in 1995 that they would endeavour to have a fair proportion of members of ethnic minorities on the staff of broadcasting organizations. The plan of action launched in this connection, entitled "More colour in the media", receives financial support from the Netherlands Government.

219. In conjunction with the authorities in the four main cities, a national service institution for local ethnic minority programmes was set up in 1993.

The purpose of this institution, which now receives a central government grant, is to provide local minority broadcasting stations with framework programmes. The central Government also supports the Ethnic Minority Broadcasting Association (STOA), whose aim is to promote ethnic minority participation in radio and television and to make use of these media in order to encourage integration and participation by ethnic minorities.

220. With regard to the press, the main activities are those of the Migrants and Media working party, which was set up by the Netherlands Union of Journalists in 1984. This working party, which also receives a central government grant, encourages reporting on ethnic minorities and recruitment of immigrant journalists.

Part Two

Aruba

Introduction

221. In pursuance of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the present consolidated eighth, ninth, tenth, eleventh and twelfth report is submitted in accordance with the guidelines on periodic reports adopted by the Committee on the Elimination of Racial Discrimination. This report covers the period between 1986 and 1996.

222. For the principal demographic, economic and social indicators and the general and political description of the Aruban constitutional system, reference may be made to the Aruban core document.

I. GENERAL

223. Like so many islands in the Caribbean, Aruba has always been a multicultural and multiracial society (see table 4). This has never led to any serious tensions or conflicts. No special policy on minorities has been implemented as the Government is of the opinion that, in view of the large numbers of nationalities resident in Aruba (see tables 5 and 6), minorities as such do not exist.

224. The various racial and ethnic groups are provided with every opportunity to maintain their cultural identity, resulting in large numbers of cultural manifestations and socio-cultural clubs including the Amigos de Colombia, the Alliance Française, a Portuguese club and a Chinese club. Although Dutch is the official language and Papiamento the mother tongue of the majority of the population, English is widely spoken and various ethnic groups speak their own language (Spanish, Patois, Chinese and Portuguese) (see table 7).

Table 4. Foreign-born population, by period, of most recent settlement in Aruba and by country or region of birth

A.

Period of settlement	USA	North America other	Central America	Colombia	Venezuela	Suriname	Peru	Guyana	South America other
Before 1920	-	-	-	1	3	1	-	-	-
1920-1979	67	10	31	656	285	369	6	54	30
1980-1989	206	10	35	568	348	158	29	15	48
1990	104	6	18	430	356	154	58	19	41
1991	86	9	15	348	227	88	61	25	40
Year not reported	5	-	-	25	34	8	2	6	1

B.

Period of settlement	Curaçao	Bonaire	St. Maarten	St. Eustatius	Saba	Dominican Republic	Haiti	Grenada
Before 1920	-	1	-	2	-	1	-	-
1920-1979	1 232	388	365	132	136	598	112	221
1980-1989	471	89	58	16	5	1 085	186	68
1990	87	18	21	-	1	263	25	14
1991	66	18	21	7	2	250	23	10
Year not reported	66	28	25	9	15	40	7	12

Table 4 (continued)

C.

Period of settlement	Jamaica	Dominica	St. Vincent	Caribbean Other	Netherlands	Portugal	Europe other
Before 1920	-	-	-	2	-	-	-
1920-1979	8	117	163	227	484	151	55
1980-1989	56	31	48	26	999	26	102
1990	75	2	21	22	454	10	43
1991	38	2	7	18	335	8	38
Year not reported	1	6	9	20	21	2	1

D.

Period of settlement	China	Philippines	Turkey	Asia other	Africa	Oceania	Total foreign population
Before 1920	-	-	-	-	-	-	11
1920-1979	78	-	2	100	4	4	6 106
1980-1989	154	21	-	95	19	3	5 006
1990	28	191	114	38	6	1	2 620
1991	11	26	9	28	3	-	1 822
Year not reported	1	-	-	-	-	-	345

Source: Third Population and Housing Census, October 1991.

Table 5. Population 14 years of age and over, by activity status and country of nationality (and, for Dutch nationals, by country of birth)

Country of nationality	Economically active		Not economically active	Activity status unknown	Total population 14 years and over
	Employed	Unemployed			
North America					
USA	212	8	149	1	370
Other	14	-	17	2	33
Central America	28	2	12	-	43
South America					
Columbia	847	50	304	3	1 204
Venezuela	609	49	234	2	894
Suriname	176	10	81	-	267
Peru	92	9	7	-	119
Other	108	10	44	1	163
Caribbean					
Dominican Republic	823	69	345	9	1 246
Haiti	213	10	28	4	256
Jamaica	136	5	16	2	160
Grenada	72	3	21	1	98
Other	77	1	32	1	111
Europe					
Kingdom of the Netherlands	24 989	1 646	18 402	172	45 206
Born in Aruba	21 464	1 431	14 654	142	37 691
Born in N.A.	1 388	79	1 506	15	2 989
Born in Europe	866	37	634	2	1 539
Born elsewhere	1 268	99	1 608	12	2 987
United Kingdom	163	6	167	1	338
Portugal	74	3	58	-	134
Other	81	2	51	-	134
Asia					
Philippines	233	1	-	-	234
China	94	-	57	-	152
Turkey	116	-	2	-	120
Other	59	-	25	-	85
Africa/Oceania	6	2	2	-	10
Other stateless person	1				1
Total population 14 years and over	29 220	1 891	20 069	200	51 379

Source: Third Population and Housing Census, October 1991.

Table 6. Population, annual rate of population change and density of population

Year	Population a/	Annual rate of population change	Area (km^2)	Density of population
1984	63 659	0.64	188	339
1985	61 359	-3.61	188	326
1986	60 359	-1.63	188	321
1987	59 993	-0.61	188	319
1988	61 043	1.75	188	325
1989	62 495	2.38	188	332
1990	65 937	5.51	188	351
1991	67 504	2.38	188	359
1992	71 304	5.63	188	379
1993	77 973	9.35	188	415
1994	80 333	3.03	188	427

Source: Central Bureau of Statistics.

a/ The Population of Aruba is based on the two censuses, 1 February 1988 and 6 October 1991, and the changes in the population registry, corrected for the migration growth.

Table 7. Composition of the population of Aruba according to nationality (January 1995)

Nationality	Total	Nationality	Total	Nationality	Total
Antigua and Barbuda	1	Germany	49	Norway	5
Argentina	64	Ghana	1	Panama	24
Australia	3	Grenada	166	Paraguay	3
Austria	9	Guatemala	2	Peru	627
Bahamas	2	Guyana	151	Philippines	399
Barbados	5	HaYti	604	Portugal	152
Belgium	26	Honduras	6	Singapore	7
Bolivia	6	Hungary	7	South Africa	0
Brazil	114	India	70	Spain	20
Canada	85	Indonesia	4	St. Kitts - Nevis	9
Chile	29	Iran (Islamic Rep. of)	1	St. Lucia	8
China	367	Ireland	3	St. Vincent and the Grenadines	45
Colombia	3 313	Israel	4	Suriname	527
Costa Rica	29	Italy	37	Sweden	6
Cuba	3	Jamaica	430	Switzerland	16
Denmark	1	Japan	3	Syrian Arab Rep.	2
Dominica	36	Kenya	1	Trinidad & Tobago	60
Dominican Republic	2 627	Lebanon	18	Turkey	9
Dutch nationality	66 718	Liberia	2	United Kingdom	351
Ecuador	48	Malaysia	5	Unknown	4
El Salvador	3	Mali	1	Uruguay	11
Equatorial Guinea	1	Mexico	20	USA	1 013
Ethiopia	1	New Zealand	2	Venezuela	2 205
Finland	1	Nicaragua	3	Yugoslavia	6
Former Soviet Union	3	Nigeria	1		
France	50	No nationality	28	TOTAL	80 694

Table 8. Population by language mostly spoken in the household

Language mostly spoken	Male	Female	Total
Papiamento	25 560	25 501	51 061
English	2 730	3 224	5 954
Dutch	1 784	1 843	3 626
Spanish	2 111	2 835	4 946
Portuguese	94	92	185
Other language	543	371	914
All languages	32 821	33 866	66 687

Source: Third Population and Housing Census, October 1991.

225. As a consequence of the considerable economic expansion (see table 9) which has taken place on the island in recent years, the Aruban employment market has attracted, and continues to attract, a large number of potential employees from the countries and islands in the region. Due to a shortfall in the local labour force, employees from abroad have been recruited, especially in the construction, tourism and domestic sectors. At the end of 1994 the Aruban population was estimated at 80,694 inhabitants, of which 13,975 (± 17 per cent) were registered foreign nationals. (A foreign national in this context means a person who does not have Dutch nationality. Nationals of Aruba, the Netherlands Antilles and the Netherlands have Dutch nationality.) However, this number does not take into account the large number of unregistered and/or illegal foreigners living on the island.

Table 9. Gross domestic product

	1991	1992	1993	1994
GDP in Af.	1 704	1 871	2 002	2 249
GDP in US$	951	1.045	1.118	1.256
GDP per capita in Af.	25 273	26 266	25 700	28 022
GDP per capita in US$	14 119	14 674	14 358	15 655
Nominal growth rate (%)	10	10	7	12
Real growth rate (%)	5	6	2	6

Source: Central Bank of Aruba.

226. It is important to note that admission quotas for certain nationalities are no longer in force. However, government policy on the admission of foreigners continues to be restrictive as the pressures on the existing infrastructure also continue to increase. Migrants are admitted only if they represent no threat to public order and security, if positions cannot be filled on the local labour market, and on humanitarian grounds. Furthermore, the Government is focusing on efforts to promote the re-immigration of Arubans, many of whom left Aruba for the Netherlands after the closing of the Lago refinery in 1985.

227. To a certain degree recent economic developments have overtaken the Aruban Government, in the sense that in most cases no adequate provision has been made with regard to the influx of foreign employees. This has led to many infrastructural problems, not least in housing. Furthermore, there is a general feeling that the comparatively large influx of foreign nationals in a relatively short period is affecting the cultural identity of the island.

228. To address these problems large-scale investments were made in the infrastructural sectors in the period 1991-1994. Furthermore, the Government continues to organize Dutch and Papiamento language courses which also promote the integration of migrant workers. The fact that Dutch is the official language at schools has given rise to problems for both immigrant children individually and the school system as a whole. Individual schools have also begun organizing Dutch language courses and special classes to help these children to reach their full potential.

229. At present, the Government's policy is aimed at providing all those who live and work on Aruba with adequate living and working conditions and reforming the educational system so that it can cope with the challenges that modern Aruban society faces.

Discrimination in Aruban legislation

230. Discrimination is prohibited in several Aruban laws, the main items of legislation being as follows.

231. The Aruban Constitution (Staatsregeling) contains in chapter I (Basic Rights), article 1.1, a definition and prohibition of discrimination:

> "All persons on Aruba shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, sex, colour, language, national or social origin, membership of a national minority, property, birth or on any other grounds whatsoever shall not be permitted".

232. Article 95c of the Criminal Code contains a definition and prohibition of discrimination:

> "... the making of any distinction based on features or characteristics of persons or groups of persons whose purpose or effect is to nullify or impair their right to the recognition, enjoyment or exercise on an equal footing of their human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

233. Article 143a states that:

"Any person who intentionally insults a person or group of persons in public, whether orally, or by means of written or pictorial material, on the grounds of their religion, ideological convictions, political views, race, sex, colour, language, national or social origin or membership of a national minority shall be liable to a term of imprisonment not exceeding one year or a fine not exceeding ten thousand guilders".

234. Article 143b specifies that:

"Any person who in public, whether orally or by means of written or pictorial material, incites hatred of or discrimination against other persons or violence against the person or property of others on the grounds of one or more of the characteristics referred to in article 143a shall be liable to a term of imprisonment not exceeding one year or a fine not exceeding ten thousand guilders".

235. Article 143c states that:

"1. Any person who for reasons other than the provision of factual information:

"a. makes public an utterance which he knows or should reasonably know is insulting to a person or a group of persons on the grounds of the characteristics referred to in article 143a or liable to incite hate and discrimination against a person or group of persons or violence against a person or group of persons on the grounds of the characteristics referred to in article 143a;

"b. disseminates an object which he knows or should reasonably know contains such an utterance, or maintains a supply of such objects in order to make public or to disseminate such utterances, shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding five thousand guilders.

"2. If the offender commits any of the offences defined in this article during the exercise of his profession within five years of a previous conviction for such an offence becoming final, he may be disqualified from pursuing that profession".

236. Articles 151 to 153 make religious discrimination an offence, while certain discriminatory acts are defined as minor offences in article 448 (b and c). All these articles have formed part of the Criminal Code since 1970.

237. The Country Ordinance on Prohibited Associations has a single article that states that:

"1. Any association whose aim is to:

a. disobey or contravene any statutory regulatio

b. undermine or pervert good morals;

c. impede any person in the exercise of his or her rights;

d. exercise, maintain or encourage discrimination against persons on the grounds of their race

is prohibited on the grounds that it is contrary to public order.

"2. The term 'discrimination' as used in this article is defined in the same way as the term used in the Aruban Criminal Code".

238. The Country Ordinance (Act) on Admission and Deportation embodies, in conjunction with the Decree and several ministerial directives, a restrictive admissions policy. Foreign nationals who wish to enter Aruba have to meet certain requirements. These include, for example, the provision of two recent photographs, a good conduct certificate from the police authorities of the country of origin that is not more than two months old, a medical certificate stating that the applicant does not have a contagious disease, diplomas or certificates relating to the job, letter of guarantee from the employer and a contract of employment drawn up in accordance with Aruban law. Foreign nationals will only be admitted if their entry would not be harmful to the public interest and to public order, if their skills are in particular demand on the local labour market or for reasons of a humanitarian nature. Maximum admission quotas have been laid down for citizens of the Dominican Republic and Haiti. After termination of the labour contract or residence permit, foreign nationals are required to leave Aruba within three weeks. They may avail themselves of the following legal remedies: interlocutory injunction proceedings, internal appeal to the Minister of Justice or appeal to the Governor. If a foreign national feels he has been subjected to discrimination within the meaning of this Act he may make a complaint to the Public Prosecutor, with the aim of starting a judicial investigation. Only a person whose residence permit has been withdrawn may await the outcome of proceedings in Aruba. The court in interlocutory injunction proceedings may, however, declare this possible in other cases too. Case law shows that in most cases the appellant is given the opportunity to await the outcome of proceedings without being expelled, except when this might disturb public order and peace.

239. In the period in question (1986-1990) inequality between males and females and between married and unmarried persons in public service was abolished, on the recommendation of the Equal Remuneration Commission and the Equal Status Commission, after a number of female civil servants had won court cases in which they had complained about unequal treatment, which proved to be contrary not only to national provisions but also to several treaty provisions.

Obligations arising from other international agreements

240. Aruba is a party to the following agreements containing provisions regarding racial discrimination:

(a) International Covenant on Civil and Political Rights and the Optional Protocol to the Covenant;

(b) European Convention for the Protection of Human Rights and Fundamental Freedoms;

(c) Convention for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(d) European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

II. INFORMATION RELATING TO ARTICLES 1 TO 7 OF THE CONVENTION

A. Article 1

241. The Aruban Constitution (art. I.1) and the Aruban Criminal Code (art. 95c) provide a definition and prohibition of discrimination. Articles 143, 151 to 153 and 448 (b and c) of the Aruban Criminal Code also deal with the prohibition of discrimination. On the basis of these articles anyone who feels he or she is a victim of discrimination can file a complaint with the Public Prosecutions Department or institute legal proceedings.

242. During the period 1991-1994 no complaints concerning racial discrimination were filed with the Public Prosecutions Department.

B. Article 2

243. The wording of article 143a, 143b and 143c of the Criminal Code of Aruba shows that the aim is to prohibit and eliminate discrimination in all its forms, whether practised by public authorities, institutions or officials or by private individuals, groups or organizations.

C. Article 3

244. As mentioned above, foreign affairs are a Kingdom matter and entail a common point of view with regard to other States and systems. Through the Government of the Kingdom Aruba has condemned racial segregation and apartheid.

D. Article 4

245. The Aruban Constitution and the Aruban Criminal Code prohibit the dissemination of ideas, whether orally or by means of written or pictorial material, based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin.

246. Article 448b of the Criminal Code prohibits the financing of organizations which promote or incite racial discrimination.

247. The Country Ordinance on Proscribed Associations bans any association whose aim is to: disobey or contravene any statutory regulation; undermine or pervert good morals; impede any person in the exercise of his or her rights; exercise, maintain or encourage discrimination against persons on the grounds of their race.

248. The following may be added to the observations on the Country Ordinance on Proscribed Associations. Action may be taken against other legal persons incorporated under private law in the event of discrimination. A non-profit-making organization (stichting) which is in breach of public policy is, like an association, proscribed and thus invalid. This may be the case if such an organization aims to infringe the rights of any person whatever (art. 2 of the Country Ordinance on Non-Profit-Making Organizations).

249. Approval of the articles of association of a cooperative association may be denied on grounds derived from the public interest or from statutory provisions, such as the provisions on discrimination in the Aruban Criminal Code. In the event of a breach of articles of association that have been approved, the public prosecutions department is empowered to apply to the civil courts for the dissolution of a cooperative association (under arts. 4 and 17 of the Country Ordinance on Cooperatives).

250. A declaration of no objection, which is required before a public limited company can be set up, may be refused if the company is in breach of public morals or public policy. An existing public limited company may be dissolved by the courts on the application of the public prosecutions department if its activities are contrary to public morals or public policy (arts. 38 and 43 of the Aruban Commercial Code). Under article 155b, paragraphs 2 and 3, of the Commercial Code, similar provisions apply to exempted companies in Aruba.

251. The Public Prosecutions Department has no knowledge or evidence of the existence of propaganda or organizations based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin which attempt to justify or promote racial hatred.

E. Article 5

252. The main frame of reference for basic human rights in Aruba is the Constitution, in which chapter I and to some extent the other chapters enshrine the most important basic human rights (see annex 3). The statutory measures which have been taken to prohibit racial discrimination are discussed above, under other articles of the Convention. A distinction is made between Aruban nationals and foreign nationals in respect of a number of the rights referred to in article 5 (for example the right to vote and the right to benefit payments). However, this distinction is based on nationality and not on race or ethnic origin.

Article 5 (a)

253. The equality of all before the law is stipulated in statutory regulations on procedural law. Each party to court proceedings, whether criminal proceedings, a civil law suit or administrative proceedings, has the same rights and obligations. Statutory provisions provide for free legal counsel. Article 2 of the Country Ordinance on Legal Aid provides for free legal assistance if a victim of discrimination has an authentic place of residence in Aruba, and has an income from employment that is equal to, or less than, the statutory minimum wage. Article 2, paragraph 2, extends this by stipulating that aliens who are not resident in Aruba but who fulfil the requirements of this country ordinance are eligible for free legal assistance.

Where a provision of international law so requires, aliens who are not resident in Aruba are also eligible for free legal assistance in civil cases. In this regard Aruba is bound by article 6 of the European Convention on Human Rights.

Article 5 (b)

254. The right to security of the person and protection by the State is stipulated in article I.5 of the Constitution.

Article 5 (c)

255. The right of every person to vote and to stand for election by universal and equal suffrage is stipulated in articles I.10, II.4, II.5 and III.6 of the Constitution of Aruba. Article I.10 provides scope to impose limitations on both the right to vote and the right to stand for election. Rights are restricted to residents of Aruba with Dutch nationality. As stated in the consolidated eighth, ninth and tenth periodic reports of Aruba, foreign nationals registered and living in Aruba were permitted to participate in the referendum held in 1977 on the future constitutional status of the island.

256. Article I.2 of the Constitution of Aruba guarantees Dutch nationals the right of access, on terms of equality, to public service. The fact that the terms of this article refer to Dutch nationality does not mean that foreigners may not be employed in the public service. Foreigners cannot, however, invoke the terms of this article of the Constitution, and they are subject to the principle that they may not be appointed to positions for which their status as foreigners would render them unsuitable. Examples are certain positions in the judiciary, the police force and the security services.

Article 5 (d)

257. Pursuant to article I.8 of the Constitution of Aruba "Everyone lawfully within the territory of Aruba shall, within that territory, have the right to liberty of movement and of residence and freedom to choose his residence without prejudice to the restrictions laid down by or pursuant to Country Ordinance". The phrase "restrictions laid down by or pursuant to Country Ordinance" provides the safeguard that restrictions to freedom of movement may only be imposed on that basis. In Aruba it is common legal opinion that the said provisions are consistent with the grounds on which restrictions may be imposed as mentioned in paragraph 3 of article 12 of the International Covenant on Civil and Political Rights.

258. Under article 7 of the Country Ordinance on Admission and Expulsion conditions regarding the place of residence may be attached to temporary or permanent residence permits. In practice, this happens only in the case of domestic servants of foreign origin who live at the home of their employers. Further to the content of the eighth, ninth and tenth periodic reports, it should be noted that domestic servants living in their employer's home should be employed in that capacity for five years, during which time they may change their employer but not what they do. Any such change of work within the five-year period will entail the withdrawal of their residence permit and

hence their work permit. The background to this measure may be found in the relevant passages in the eighth, ninth and tenth periodic reports.

259. The right to leave any country, including one's own, and to return to one's country of origin is restricted by a number of statutory provisions: if the person concerned is being prosecuted for an offence; if he has been convicted of an offence (in the period that the judgement may not yet be executed); if he has to serve a custodial sentence; if he has failed to comply with financial obligations to the Government; or if he is doing military service.

260. Under article 3, paragraph 1c, of the Charter of the Kingdom, Dutch nationality is a Kingdom matter. The nationality of citizens of the Kingdom of the Netherlands is governed by the Netherlands Nationality Act of 19 December 1984 which is a Kingdom Act. Netherlands nationality may be granted to foreign nationals who fulfil the following conditions:

(a) They must have attained the age of majority;

(b) There must be no objection to their residence for an unlimited period;

(c) They must have been resident in the Kingdom for a certain period of time;

(d) They must be integrated into society and have a reasonable command of the local language.

261. Foreign nationals who have been resident in Aruba for five years may apply for naturalization. The Aruban Minister of Justice then makes a recommendation in respect of the application. Further information on Netherlands nationality may be obtained from the report on the Netherlands.

262. Men and women are free to choose a spouse and to enter into marriage. An essential feature of marriage is the free consent of the prospective parties (art. 77 of the Aruban Civil Code). Article 76 of the Civil Code prohibits polygamy. The minimum age for marriage is 15 for a woman and 18 for a man.

263. The right to own property is stipulated in article I.19 of the Constitution.

264. The Aruban Civil Code makes no distinction on the basis of race, ethnic origin or nationality with regard to the right to inherit.

265. Table 10 gives an indication of the religions which are actively practised in Aruba. There are a great number of churches and places of worship. Although the majority of Arubans are Roman Catholics, religious minorities are given every opportunity to practise their faith. Pursuant to article I.15 of the Constitution everyone has the right to manifest freely his religion or belief, either individually or in community with others. In certain cases limitations may be imposed by country ordinance. The grounds included in article 18, paragraph 3, of the International Covenant on Civil and Political Rights are also contained in the Aruban Constitution. Such limitations have never been imposed in practice, however.

Table 10. Religion (in percentages)

	1960	1972	1981	1991
Roman Catholic	79.7	88.2	88.5	86.2
Methodist	5.9	3.8	2.4	1.6
Anglican	1.9	1.1	0.9	0.7
Adventist	-	0.4	0.6	0.6
Protestant	7.9	3.8	2.8	2.7
Evangelist	-	-	0.6	2
Jehovah's Witness	-	-	1.1	1.3
Muslim	-	0	0	0.3
Jewish	0.4	0.1	0.2	0.2
Other	2.5	1.4	1.3	1.5
No religion	1.7	1.2	1.6	0.1
TOTAL	100	100	100	100

Source: Population Censuses 1960, 1972, 1981 and 1991.

266. The right to hold opinions and the closely related right to express those opinions are safeguarded by article I.12 of the Constitution.

267. Article I.13 safeguards the right to peaceful assembly.

Article 5 (e)

268. Chapter I of the Aruban Constitution, which safeguards the traditional freedoms, does not include the right to work within the meaning of article 5 (e). However, article V.22 of the Constitution does impose on the Government the duty to promote sufficient employment for the residents of the island. The Government carries out this duty by pursuing budgetary and monetary policies, levying taxes, creating tax and other facilities and taking other measures to stimulate the economy in general.

269. The provision of retraining and further training, for example by the Training for Employment Scheme (Enseñanza pa Empleo) is also designed to help to realize the right to work. Under the Scheme, anyone may take a course, at minimal expense, in, for example, languages, technology, bookkeeping, marketing and computing. The number of people taking such courses rose from 233 to 3,431 between 1988 and 1993. Of the 3,022 students who were taking courses under the scheme in 1994, 1,410 came from Aruba, 217 from

the Netherlands Antilles and 87 from the Netherlands. The remaining 1,308 students - over a third of the total - were foreign nationals. Employers, employers' organizations and trade unions also regularly provide training opportunities.

270. In order to ensure the right of everyone to the enjoyment of just and favourable conditions of work, a number of statutory provisions apply to work that is performed in the private and public sectors. There are also a number of statutory provisions governing the social security of employees. None of these provisions makes any distinction according to race or ethnic origin.

271. Article I.11 of the Constitution guarantees freedom of association, in which is implicit the right to form trade unions. Under paragraph 2 of article I.11, freedom of association may be restricted by country ordinance in the interests of public order, and this has been done by the Country Ordinance on Association and Assembly, which is solely concerned with regulating association and assembly in the interests of public order. It contains no provisions relating to the right to form trade unions or the right of a trade union to hold meetings. The only organizations banned under the Country Ordinance on Proscribed Associations are those which aim to undermine public policy.

272. There are seven public-sector trade unions and four in the private sector. They include unions for civil servants, the police, teachers, care workers and industrial workers.

273. To date, efforts to establish a universal housing benefit system for the island as a whole have come to little. Social housing is available for people on low incomes. The Minister of Public Works decides on the criteria (e.g. family income, make-up of the family) to be applied in allocating such housing.

274. In 1979 the Fundacion Cas pa Communidad Arubano (FCCA: Houses for the Aruban Community) was founded with the aim of improving public housing in Aruba. The FCCA manages some 1,400 dwellings for the country. The rent charged for them depends on the gross monthly income of the household. The FCCA also provides mortgages, for an average of 25 years, at an interest rate which depends on gross annual income. Foreign nationals who have been resident in Aruba for five years may be eligible for social housing or an FCCA mortgage.

275. A system of measures has been put in place to assist those who, for one reason or another (unemployment, illness, disability, age), are unable to earn their own living. For a detailed review of social security provision reference may be made to the Aruba core document and to the initial report under the Convention on the Elimination of All Forms of Discrimination against Women. Article 5 of the Country Ordinance on Social Provision states that only Dutch nationals are eligible for assistance. However, article 19 of the same ordinance states that non-Dutch nationals born in Aruba may be granted assistance under rules to be laid down pursuant to a national decree. Transitional benefit is paid out if the claimant applies for Dutch nationality.

276. For information on the right to education and the right to equal participation in cultural activities, please refer to article 7 of the Convention, to the initial report of Aruba under the Women's Convention and to the Aruba core document.

277. No distinction is made regarding race or ethnic origin with regard to the right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.

F. Article 6

278. As stated above, discrimination on grounds of race is an offence under the Aruban Criminal Code. Anyone who believes that racial discrimination has taken place may report the incident to an investigative officer or to the public prosecutions department, which may decide to prosecute. If criminal proceedings are instituted, the victim may join the proceedings and claim damages of up to Af. 1,500.

279. In addition to, or instead of, reporting a criminal offence, those who feel they have been discriminated against may avail themselves of the following legal remedies:

280. If a complainant believes he has been discriminated against by an administrative authority on the grounds of his race, he may have recourse to the following procedures:

(a) If the alleged discrimination took place in connection with an administrative decision taken by the authority, the complainant may have recourse to the civil courts or lodge an administrative appeal (in future it will be possible to bring an action before an administrative court); if the decision was taken on an improper basis (such as racial discrimination) it will be overturned;

(b) If the alleged discrimination took place in the context of a civil law relationship between the complainant and an administrative authority, the complainant may turn to the civil courts (see para. 281).

281. A case may be laid before the civil courts on various grounds. If the alleged discrimination took place in the context of a contractual relationship, the complainant may claim fulfilment of the contract or damages in tort. If there was no contractual relationship, the victim of the alleged discrimination may claim damages from the natural or legal person at fault.

282. With effect from 3 December 1982, Aruba also recognized the competence of the Committee to receive and consider communications from individuals under article 14 of the Convention. To date, no Aruban has filed a complaint concerning an alleged violation. National remedies for a person who feels he has been discriminated against are discussed elsewhere in this report.

G. Article 7

283. The main principles on which the Aruban education system is based are enshrined in article I.20 of the Constitution, which guarantees the freedom

to provide and receive education, within limitations laid down by country ordinance. The main restriction on the provision of education is that the Government may monitor the quality of education.

284. At present Aruba has 60 nursery and primary schools, most of which are public-authority or privately run schools. There are a few special schools for children who are mentally or physically handicapped. The International School of Aruba (ISA) - which has an American-style curriculum - and the school of the Faith Revival Centre are in a special position, as they do not conform to the conditions set by the Government for funding.

285. In 1994 2,385 children attended nursery school and 7,861 children a primary school. Of these (10,246 in all), 255 attended a special school, 150 the ISA and 134 the Faith Revival Centre school.

286. There are 25 secondary schools, ranging in level from junior technical education upwards, and there is one university. The numbers of pupils attending each type of school are as follows:

Junior secondary vocational education:	2,213
Senior secondary vocational and administrative education, including the hotel school:	565
General secondary education:	3,395
Teacher training college:	150
University of Aruba:	159

287. The population increase is largely due to economic developments in Aruba which have attracted people to work on the island, with or without their families. Children of legal residents may attend school on the same basis as Aruban children. When a child applies to a school, the authorities ascertain the birthplace of the child and his parents. If one of the three was born in Aruba, the child is automatically admitted to the school. If none of the three was born in Aruba the child must be able to produce a residence permit or an application showing that such a permit will shortly be granted. Children of those not legally resident are not admitted to school as this would enable the parents, on being deported, to appeal to the court to be allowed to stay in Aruba until the child had finished the school year.

288. The admission of non-Aruban children to the various schools has as yet created few problems in terms of integration. Aruban society has always been multiracial and people are used to associating with other nationalities. However, it is possible that the rapid pace and scale of the population increase may lead to friction. Some years ago the teacher training college (Instituto Pedagogico Arubano or IPA) recognized the need to train future teachers to cope with children in a multiracial and multicultural society. In 1993 the college introduced a 10-week module on the multicultural society in the third year of the training course, focusing in particular on prejudice and intolerance. Part of the module involved the students giving lessons on this

theme at the schools where they were doing their teaching practice, thus drawing the attention of pupils to the issue. By way of preparation for the module on multiculturalism, the second year of the teacher training course includes a module on educational inequality, focusing on class differences in society. Students generally take a positive attitude to the multiculturalism module. The IPA is currently looking into the possibility of integrating the theme of multiculturalism throughout the curriculum instead of only in one or two course modules.

289. As stated above, the influx of foreign children has produced few problems in terms of integration. However, the situation with regard to teaching is somewhat different. As the language of instruction is Dutch, foreign children who cannot speak Dutch find it difficult to follow their lessons. The languages spoken by pupils at home are as follows:

Papiamento:	77.2 per cent
Dutch:	7.3 per cent
English:	7.3 per cent
Spanish:	7.0 per cent
Other:	1.1 per cent

290. The Government has taken a number of measures to deal with the language problem. The Country Ordinance on Primary Education stipulates that Papiamento will be used in the first two years of primary school, which will make the transition somewhat easier for Aruban children who speak little or no Dutch at home. English-speaking children may go to the ISA, where English is the language of instruction. The Aruban Government acknowledges the importance of the ISA and makes a financial contribution every year, despite the fact that the ISA does not meet the statutory requirements for a subsidy. There are no separate schools for other children, with Spanish-speaking pupils being the largest subgroup. However, in 1993 the Prisma project was started, involving a special method of teaching Dutch as a second language to children between the ages of 8 and 12. The course lasts for 40 weeks and the results have, in general, been very good. After the 40-week course the majority of children prove able to follow standard teaching in Dutch. At present the project is limited to one school, but in view of its success it should be extended to other schools. However, its expansion and even its continuation at the school in question are in doubt because of a shortage of funds.

291. A number of other educational activities merit attention here.

292. The January 1995 issue of the children's newspaper published by the Education Department in cooperation with a local newspaper contained a number of articles on racial discrimination. These included an article on tolerance and intolerance, one on Mahatma Gandhi and one on Martin Luther King. The Aruban human rights committee regularly provides information to schools on the Universal Declaration of Human Rights and the United Nations human rights

conventions. Lectures and workshops on human rights are organized for individual schools, at which the topic of discrimination is discussed at length.

293. Within the framework of the United Nations Year for Tolerance, the IPA and other bodies are organizing a symposium entitled "Social and Cultural Diversity in Society". The subjects touched on will include intercultural education and multiculturalism in industry.

294. Although Aruba is a relatively small island, it enjoys a wide range of cultural activities, which reflect the island's cultural diversity. Moreover, that very diversity is often the theme of cultural activities. Numerous organizations and individuals are actively engaged in the visual arts, music, dance, theatre and literature. Aruban artists and performers regularly take part in regional and interregional gatherings and cultural exchanges. Aruba also regularly hosts touring exhibitions and annual regional festivals of dance, theatre and music. The National Library's cultural month will be devoted to the theme of tolerance, in the context of the United Nations Year for Tolerance.

Part Three

The Netherlands Antilles

Introduction

295. The present report covers the period between 1991-1996 and should be read in conjunction with previous periodic reports. The report follows as closely as possible the revised general guidelines as laid down by the Committee in 1981 and 1982 (CERD/C/70/Rev.1). It contains further answers and statistical data to questions that were raised by the Committee during its consideration of the eight and ninth periodic reports. An update on the tenth periodic report is also provided in this report.

296. In the period covered by the present report, the Government of the Netherlands Antilles has devoted considerable attention to the specific situation of the two bigger islands of the Netherlands Antilles, in particular the island of St. Maarten. One of the most important developments is the collection of a large amount of statistical data from which the condition and position of migrants living in the Netherlands Antilles could be ascertained.

297. Major adjustments had to be made to the implementation of socio-economic programmes and projects for the island of St. Maarten after the two hurricanes of 1995, Luis and Marilyn.

298. The data gathered from various non-governmental and governmental surveys on immigrants living in St. Maarten led to concerted action in the form of projects aimed at improving the conditions of the community as a whole, but in particular at meeting the needs of the most vulnerable groups. St. Maarten needs a completely new infrastructure, and this will entail short-, mid- and long-term projects. This report accordingly covers a period in which the Government is very busy setting up multi-annual plans and programmes of provisional relief, in the wake of the hurricanes referred to above.

299. It is against this background that the Government would very much appreciate any suggestions by the Committee which would foster the process of rebuilding the island of St. Maarten in such a way as to benefit all the members of the community.

I. GENERAL

300. The Netherlands Antilles consists of five islands, and is an autonomous part of the Kingdom of the Netherlands, with a total population of 189,000 inhabitants of 40 different nationalities. A term that is commonly associated with "migrant" is "alien". The term alien refers to a person's nationality. Of the total population, 13 per cent are aliens, while 87 per cent possess Dutch nationality.

301. Migration has been a very important factor throughout the demographic history of the islands. Over the past decade, notably during the second half of the 1980s, there has been a net emigration from Curaçao and, despite a rate of natural increase of about 1.3 per cent, the population declined. On St. Maarten, however, the annual growth rate between 1981 and 1992 was 8.5 per cent, mainly due to an influx of migrants of mostly Caribbean origin, who came to work in the booming tourist industry. The country as a whole saw an increase in the foreign-born population from 16.2 per cent in 1981 to 20.02 per cent in 1992. For further general information see the core document (HRI/CORE/1/Add.67) and previous reports of the Netherlands Antilles.

302. Despite the enormous expansion in the Antillean population, it has consistently remained a highly tolerant society. The expansion is in part due to natural growth and in part to the influx of migrants. Increased employment in the islands has resulted in more workers being registered in 1992 than in 1981. The larger islands of St. Maarten and Curaçao exert a strong pull-factor, attracting migrants from their smaller satellites, i.e. St. Eustatius, Saba and Bonaire.

303. The Caribbean region and migration are inextricably intertwined. The Netherlands Antilles is a popular destination for migrants. However, migration has a direct and far-reaching impact on small populations, especially when more people are entering, rather than leaving the country. The situation has, moreover, been exacerbated by the fact that a large percentage of migrants to the Netherlands Antilles, specifically St. Maarten, are illegal.

Policy on minorities

304. The Netherlands Antilles does not have a specific policy on minorities. The principle of equality is the basis of the legal order, and it is enshrined in article 3 of the Constitution of the Netherlands Antilles, which provides as follows: "All who are in the territory of the Netherlands Antilles have an equal right to protection of their person and goods". Naturally, it is not only a matter of claims to protection of person and goods because the tenor of the article is that all individuals are equal before the law.

305. Individuals who consider that they have in some way been accorded unequal treatment and thus discriminated against may have recourse to the

courts. Individuals who cannot afford the cost of bringing an action before the courts have been eligible for full legal aid since 1955.

306. The judiciary, the executive and the legislature are governed by the same principles as within the Kingdom of the Netherlands. The majority of the rights and freedoms contained in the Covenants are protected by the Constitution, while others are governed by several separate laws.

307. According to article 43 of the Charter the safeguarding of fundamental human rights and freedoms, legal certainty and sound government shall be Kingdom affairs, but the Netherlands Antilles also has an autonomous responsibility for the realization of these rights and freedoms. Before any amendment affecting basic rights is made to the Constitution, the opinion of the Governor must be obtained. A bill containing such approval must be submitted to the Government of the Kingdom for its approval.

308. Although there is no specific policy on minorities it is clear that the presence of migrants is a reality and that these persons are entitled to protection under the constitutional order of the Netherlands Antilles. The admission and employment of aliens is, moreover, regulated by the admission and departure policy, the Civil Code, labour legislation and other relevant regulations.

309. There are some professions for which working permits are granted on a regular basis due to the absence of sufficient qualified local personnel: domestic servants, farmers, stockmen, technicians, diesel mechanics, accountants, lawyers, doctors, nurses, chemists, chemist's assistants, directors of locally established companies, nuns and monks, clergy, missionaries, hotel staff, bakers and managers. Meanwhile, the Government is attempting to maintain a sufficient overview of the influx of migrants with a view to continuing to provide the necessary safeguards to which each citizen of the Netherlands Antilles is entitled. Policy is at any rate geared to curbing the increasing influx of illegal migrants, though measures to this effect are being hampered by a lack of infrastructural facilities.

310. Problems include a lack of effective controls on the movement of persons in practically all island communities, and restricted facilities for the reception of aliens awaiting deportation. The Government has set up a working group on aliens policy with a view to tackling some of these problems on a structural basis. The working group has been informed of the above problems. It has also been asked to evaluate the present Admission and Expulsion Ordinance and come up with recommendations.

311. The situation on the two largest islands of the Netherlands Antilles (Curaçao and St. Maarten), where illegal immigration has increased sharply in recent years, is a source of great concern to the Government. As far as the island community of St. Maarten, which comprises French and Netherlands Antillean territories is concerned, the population growth of the last 25 years has been more or less parallel with the economic growth experienced by the island.

312. Almost half of the island's present population (the Netherlands Antillean part of St. Maarten), some 60,000 souls, do not comply with the statutory provisions for legal residence.

313. Another factor that facilitates illegal residence is the division of the island into two separate territories, each with its own regulations and administration. The differences in regulations and the territorial limitation of the powers of the respective authorities also hamper enforcement of the current legislation on aliens.

314. Due to the huge scale of illegal immigration, large groups of people live in conditions that are far below what is locally considered acceptable, and that even pose a health hazard.

315. It is against the background of these findings and this concern that the Antillean Government has developed numerous initiatives, including the conclusion of a bilateral agreement with France, which provides for common border controls at the St. Maarten airports. The Government has, moreover, gradually relaxed its admissions policy in the case, for instance, of St. Maarten, with a view to meeting the labour market's demand for workers in various fields, who could not be found in the local market.

316. Aliens who had submitted an application for admission were formerly admitted to the island pending the outcome of their request. The policy on this point has now been changed, and applicants are currently required to await the outcome of their application in their country of origin or elsewhere.

Migration in relation to economic development

317. Among the Antillean islands, St. Maarten is an important country of destination in the Caribbean region. In 1981 the population of St. Maarten amounted to 13,156. Eleven years later it had risen to 32,221. This expansion is the result of a huge influx of migrants.

318. Before the devastation caused by hurricanes Luis and Marilyn in mid-1995, the economy was booming due to the rapid development of tourism, particularly as of 1985. There was a sharp increase in GDP, as well as in employment. Economic growth stagnated at the beginning of 1990; the growth in the tourist sector seemed to have reached full capacity.

319. The large-scale development of the tourist sector could not have been achieved without the input of numerous migrant workers. However, the considerable influx of migrants has also had a negative side. Firstly, many migrants reside illegally in St. Maarten. Secondly, increased demand for housing and educational facilities has not been matched by increased supply. Slums have been built and migrants have been forced to set up their own facilities (notably schools) with the assistance of NGOs.

320. The Government of the Netherlands Antilles is gravely concerned about the large influx of undocumented migrants and the consequences for the community of St. Maarten as a whole. To obtain more information about the scope of this problem, preliminary surveys were carried out between 1993 and 1995: "Migration from and to the Netherlands Antilles in the social-economic context" 1981-1992 (University of Amsterdam and the Central Bureau for

Statistics of the Netherlands Antilles), and "Immigrant children in the community of St. Maarten" (by the Central Agency for Joint Financing of Development Programmes). The situation proves more complex than initially thought, a fact that is due in part to the consequences of hurricanes Luis and Marilyn.

321. In its reconstruction programme following the devastation of St. Maarten in the hurricanes, the Government will be focusing on projects in the following areas: housing; education; bridging loans for businesses; marketing of tourism; waste water and rainwater management; medical care; airport; port; underground cables.

Demographic information

322. The Census of 1992 on Housing and Population provides information and details of the demographic composition of the Netherlands Antilles. It is important to note that the Census covered the following population categories in 1992:

(a) Individuals who had lived in the Netherlands Antilles for more than a year;

(b) Individuals who had lived in the Netherlands Antilles for less than a year, but who intended to remain there longer than a year.

323. The Census provides us no information on race or colour, but basically focuses on nationality and place of birth. Furthermore, foreigners are defined as citizens who do not have Dutch nationality. This group is very heterogenous and consists of about 40 nationalities. The Census does not provide any data on the status of foreigners/non-Dutch nationals. The following tables provide an overview of the population of the Netherlands Antilles.

Table 12. Population of the Netherlands Antilles, by nationality (1992)

Place of birth	Total	Dutch national	Alien	Unknown
Total	189 474	164 694	24 650	130
Aruba	4 329	4 298	27	4
Antilles	146 855	143 861	2 934	60
The Netherlands	6 633	6 593	35	5
Other countries	31 603	9 918	21 651	34
Unknown	54	24	3	27

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 13. Dutch and non-Dutch nationals, by island

Island	No. inhabitants	Dutch	Aliens
Curaçao	144 097	137 401	6 624 (4.6%)
Bonaire	10 187	9 334	849 (8.3%)
St. Maarten	32 221	15 445	16 722 (51.9%)
St. Eustatius	1 839	1 543	296 (16%)
Saba	1 130	971	159 (16%)
Neth. Ant.	189 474	164 694	24 650 (13%)

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 14. Inhabitants of Dutch nationality, by place of birth

Aruba	4 298 (2.6%)
Netherlands Antilles	143 861 (87.4%)
Netherlands	6 593 (4.0%)
Other countries	9 918 (6%)

Table 15. Major countries of origin of inhabitants of Dutch nationality

Dominican Republic	2 472 persons
Suriname	1 362
St. Kitts-Nevis	1 022
Colombia	531
Venezuela	443

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 16. Regions of origin of inhabitants of Dutch nationality

Caribbean region	5 779 persons
South America	2 478
Asia	665
Europe (excl. the Netherlands)	612
United States	205
Other North and Central America	118
Other countries	61
Total	9 918

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 17. Dutch nationals not born in Aruba, the Netherlands Antilles or the Netherlands, by island

Island	Dutch nationals	Not born AR/NA/NETH
Curaçao	137 401	6 604 (4.8%)
Bonaire	9 334	288 (3.0%)
St. Maarten	15 445	2 750 (17.8%)
St. Eustatius	1 543	232 (14.9%)
Saba	971	44 (4.5%)
Total	164 694	9 918 (6.0%)

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 18: Major nationalities of foreign inhabitants

Dominican Republic	5 759	of whom 1 711 on Curaçao of whom 3 685 on St. Maarten
Haiti	4 611	of whom 4 508 on St. Maarten
Great Britain	1 849	of whom 1 409 on St. Maarten
United States	1 390	of whom 774 on St. Maarten
Dominica	1 270	of whom 1 225 on St. Maarten
France	1 257	of whom 1 209 on St. Maarten
Portugal-Madeira	1 129	of whom 1 129 on St. Maarten
India	1 036	of whom 676 on St. Maarten
Total	18 301	of total 24 650 aliens (13% of population)

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 19. Alien nationalities, by region

Caribbean	13 969 persons (56%)
South America	2 627
Asia	1 595
Europe (excl. Netherl.)	4 624
United States	1 390
Other North and Central America	255
Other (incl. stateless)	190
Total	24 650

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 20. Nationality and country of birth of alien population

Nationality	Country of birth
Dominican Republic	5 759 persons, of whom 5 521 born in the Dominican Republic
Haiti	4 611 persons, of whom 3 888 born in Haiti, 702 on St. Maarten
United Kingdom	1 849 persons, of whom 170 born in the United Kingdom; the rest born on islands such as St. Kitts-Nevis (414), Dominica (265) Anguilla (258)
United States	1 390 persons, of whom 1 047 born in the United States
Dominica	1 270 persons, of whom 1 130 born in Dominica
France	1 257 persons, of whom 227 born in France; the rest born on St. Maarten (786), Guadeloupe (56)
Portugal-Madeira	1 129 persons, of whom 886 born in Portugal-Madeira; 219 on Curaçao
India	1 036 persons, of whom 830 born in India

Source: Central Bureau for Statistics of the Netherlands Antilles.

The above table shows that a group of people exists who possess alien nationality and yet who were born in the Netherlands Antilles, Aruba or the Netherlands. This group of aliens comprises 2,178 persons (12 per cent of aliens). The people in question are nationals of the following countries:

Table 21. Nationality of aliens born in the Netherlands Antilles, Aruba or the Netherlands

France	810 persons (of whom 789 born on St. Maarten)
Haiti	709 persons (of whom 705 born on St. Maarten)
Dominican Republic	223 persons (of whom 207 born on St. Maarten)
Portugal-Madeira	223 persons (of whom 223 born on St. Maarten)
United Kingdom	213 persons (of whom 155 born on St. Maarten)

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 22. Population of the Netherlands Antilles, by place of birth

	Total N.A.	Dutch nationals	Aliens
Total	189 474	164 694	24 650
Kingdom Neth.	157 817	154 752	2 996
Elsewhere	31 603	9 918	21 651
BONAIRE			
Total	10 187	9 334	849
Kingdom Neth.	9 101	9 045	56
Elsewhere	1 081	288	793
CURACAO			
Total	144 097	137 401	6 624
Kingdom Neth.	131 431	130 781	605
Elsewhere	12 636	6 604	6 018
ST. MAARTEN			
Total	32 221	15 445	16 722
Kingdom Neth.	15 021	12 689	2 308
Elsewhere	17 182	2 750	14 412
ST. EUSTATIUS			
Total	1 839	1 543	296
Kingdom Neth.	1 322	1 310	12
Elsewhere	516	232	284
SABA			
Total	1 130	971	159
Kingdom Neth.	942	927	15
Elsewhere	188	44	144

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 23. Population of the Netherlands Antilles, by age and sex

Age group	Total	Male	Female
Total	189 474	90 707	98 767
00-14	49 236	24 784	24 452
15-24	28 245	14 107	14 138
25-34	35 057	16 528	18 529
35-44	30 203	14 033	16 170
45-54	19 865	9 226	10 639
55-64	13 085	6 206	6 852
65+	13 810	5 823	7 987

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 24. Population of the Netherlands Antilles with foreign nationality, by age and sex

Age group	Total	Male	Female
Total	24 650	11 670	12 980
00-14	4 614	2 282	2 332
15-24	3 113	1 433	1 680
25-34	7 785	3 598	4 187
35-44	5 309	2 478	2 831
45-54	2 076	1 011	1 065
55-64	827	428	399
65+	926	440	486

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 25. Total population of the Netherlands Antilles, by age and marital status

a.

Age group	Total	Single	Married	Widowed	Divorced
Total (No.)	189 474	116 692	57 997	6 405	8 237
00-19	63 907	63 750	147	-	3
20-44	78 834	43 137	31 109	403	4 097
44-64	32 923	7 170	20 527	1 797	3 401
65+	13 810	2 635	6 214	4 205	736

Source: Central Bureau for Statistics of the Netherlands Antilles.

b.

Age group	Total (%)	Single	Married	Widowed	Divorced
Total %	100.0	61.6	30.6	3.4	4.3
00-19	33.7	33.6	.1	-	-
20-44	41.6	22.8	16.4	2.2	2.2
44-64	17.4	3.8	10.8	1.8	1.8
65+	7.3	1.4	3.3	.4	.4

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 26. Foreign population of the Netherlands Antilles, by age and marital status

a.

Age group	Total	Single	Married	Widowed	Divorced
Total (No.)	24 650	14 832	8 548	500	743
00-19	5 641	5 602	39	-	-
20-44	15 180	8 217	6 378	94	467
44-64	2 903	831	1 680	151	239
65+	926	182	451	255	37

Source: Central Bureau for Statistics of the Netherlands Antilles.

b.

Age group	Total (%)	Not married	Married	Widowed	Divorced
Total (%)	100.0	60.2	34.7	2.0	3.0
00-19	22.9	22.7	.2	-	-
20-44	61.6	33.3	25.9	.4	1.9
44-64	11.8	3.4	6.8	.6	1.0
65+	3.8	.7	1.8	1.0	.2

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 27. Foreign-born population with Dutch nationality, by age and marital status

a.

Age group	Total	Single	Married	Widowed	Divorced
Total	9 918	3 445	5 014	794	661
00-19	1 794	1 788	6	-	-
20-44	3 513	1 098	2 085	50	277
44-64	2 710	329	1 900	235	245
65+	1 901	230	1 023	509	139

Source: Central Bureau for Statistics of the Netherlands Antilles.

b.

Age group	Total (%)	Not married	Married	Widowed	Divorced
Total (%)	100.0	34.7	50.6	8.0	6.7
00-19	18.1	18.0	.1	-	-
20-44	35.4	11.1	21.0	.5	2.8
44-64	27.3	3.3	19.2	2.4	2.5
65+	19.2	2.3	10.3	5.1	1.4

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 28. Total population, by income

Income	Total	Dutch nationals	Aliens
Total	189 474	164 694	24 650
00000	38 150	32 781	5 351
00001-00499	23 510	20 969	2 526
00500-00999	24 327	19 861	4 457
01000-01499	15 737	12 898	2 832
01500-01999	10 851	9 193	1 651
02000-02999	12 242	10 900	1 340
03000-04999	9 170	8 216	951
05000-09999	3 494	3 046	446
10000-34999	629	504	123
NR	2 126	1 743	357
NA	49 236	44 583	4 614

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 29. Total population, by income

	Total	Dutch nationals	Aliens
Total	189 474	164 694	24 650
Work/business	73 350	59 963	13 353
Pension	15 526	14 832	684
Social security	9 350	9 193	153
Private wealth	683	509	174
Student grant	859	848	10
Redundancy payment	366	360	6
None	38 106	32 746	5 342
Other	1 415	1 192	221
No.	583	468	93
NA	49 236	44 583	4 614

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 30: Total population by source of income and sex

Men	Total	Dutch nationals	Aliens
Total	90 707	78 968	11 670
Work/business	42 167	34 392	7 754
Pension	7 630	7 270	354
Social security	2 708	2 668	39
Private income	359	254	105
Student grant	364	360	4
Redundancy pay	231	227	4
None	11 699	10 659	1 036
Other	467	411	56
No.	298	244	36
NA	24 784	22 483	2 282

Women	Total	Dutch nationals	Aliens
Total	98 767	85 726	12 980
Work/business	31 183	25 571	5 599
Pension	7 896	7 562	330
Social security	6 642	6 525	114
Private income	324	255	69
Student grant	495	488	6
Redundancy pay	135	133	2
None	26 407	22 087	4 306
No.	948	781	65
NA	285	224	57
	24 452	22 100	2 332

Source: Central Bureau for Statistics of the Netherlands Antilles.

Admission and employment policies

324. The admission policy of the Netherlands Antilles is based on the Admission and Expulsion Ordinance. Pursuant to article 5 of the Antillean Constitution, the admission, residence and expulsion of aliens must be statutorily regulated. The Governor is authorized to admit and expel within the framework of the aliens legislation. The regulations governing admission and expulsion are valid at national level for all island communities, but residence permits are only issued per island community.

325. Aliens who apply to be admitted to the Antilles must in principle await a decision in the country of origin or elsewhere. However, when posts cannot be filled by local labour, employees from territories in the region and from abroad have been recruited and allowed to enter while awaiting a final decision on their request for a work permit.

326. Someone who has a residence/work permit for, say, Curaçao, is not, however, automatically entitled to stay in, say, Bonaire. Migrants can be issued a residence permit or a work permit. Both types of permit are in theory provisional, but may be extended repeatedly, and at a later date an application could be made to settle permanently. Admission may also be granted ipso jure. The Aliens Department is always involved in migration cases, with the final decision being taken by or on behalf of the Minister of Justice.

327. On the Netherlands Antilles migrant workers are only issued a labour permit if no local worker can be found to fill a particular post or if they are on an assignment from a foreign company. The Department of Labour and the Aliens Department advise the Governor on the grant of work permits. A worker's family may migrate with him or her; they will be given a residence permit but not a work permit. Equally, partners of Antilleans who are Dutch nationals are prohibited from working. Family reunification does, incidentally, constitute grounds for admission.

328. In the case of marriage, a partner can be brought over as a tourist from the country of origin or elsewhere. During the partner's period of stay as a tourist the couple can marry or have a notarial deed of cohabitation drawn up, after which the partner can apply for a residence permit.

329. The Government has, however, recently decided to make certain amendments to the Admission and Expulsion Ordinance. Foreigners married to Antilleans who are Dutch nationals will in future be issued a residence permit that does not prohibit them from working (see case law in annexes). In other words, it does not matter whether this category of partner possesses Dutch or some other nationality.

330. Migrant entrepreneurs should have a permanent residence permit. This is issued in cases where the relevant island sees a need for the kind of business that is to be set up.

331. The Netherlands Antilles - as part of the Kingdom of the Netherlands - is bound by several ILO conventions, such as No. 14 dealing with weekly rest in industry, No. 81 dealing with labour inspection and No. 106 dealing with weekly rest in offices.

332. Minimum wages are regulated in the Netherlands Antilles by the Minimum Wage Ordinance. This empowers the Government to lay down minimum wage requirements and prohibits the conclusion of employment contracts providing for wages below this minimum. All workers (including foreigners who are allowed to work) are thus entitled to the minimum wage fixed for their economic sector or island. Compliance with this system is supervised by the Labour Inspectorate of the Department of Labour and Social Affairs.

333. With regard to guarantees against discrimination, there is no specific general provision prohibiting discrimination in employment in the national legislation of the Netherlands Antilles. There are, however, a number of articles in national legislation designed to prevent discrimination in the sphere of employment. Article 1 (3) of the Collective Agreements Ordinance lays down that the terms of collective labour agreements may not specify that the employer is obliged to engage or is prohibited from engaging persons of a particular race, religion or political conviction. Article 4 of the Ordinance establishing an employment office states that this employment agency is to be accessible to all employers and all persons seeking work.

334. Where discrimination exists in labour relations, the parties concerned may always address themselves to a court, where the articles on non-discrimination of the European Convention on Human Rights (art. 14) and the International Covenant on Civil and Political Rights (art. 26) are considered "self-executing" articles. See also article 5 of this Convention.

Education policy

335. According to the 1992 census, St. Maarten has 32,221 permanent residents. Officially, there are 948 inhabitants per km^2. In fact, the population density is even greater, given that in addition to the inhabitants registered by the census there are a large number of illegal migrants living on St. Maarten, including a considerable number of children. In the light of this fact, a preliminary survey was carried out in 1993, based on the following principle: "Children have a right to care, upbringing and education, and this includes the children of migrants, whether legal or illegal."

336. It emerged that more information was needed concerning migrants and their children, so that concrete plans for programmes could be set up. The

ultimate survey, which took place between mid- and late 1994, was geared to specific target groups, including representatives of the migrant groups that had been actively involved in the survey right from the start. (See, in this context, the provisions of article 5 (e) (v) and the introduction to this report under the section entitled "migration in relation to economic development", paras. 317-321).

Housing policy

337. On the islands of Bonaire, Curaçao, St. Eustatius and Saba, 80-90 per cent of dwellings have been found to be in a suitable state. In the case of the island of St. Maarten, however, the housing census found only 69 per cent of dwellings suitable. It registered 8 per cent as being in a poor state and 11 per cent as being in a very poor state. In 1981 these figures for St. Maarten were, respectively, 82 per cent, 13 per cent and 4 per cent. It can be concluded that the quality of the housing stock has deteriorated considerably, as witness the large increase in the number of shacks.

338. The shacks are concentrated in a number of shanty towns. In the years prior to the census a great many houses were constructed, some legal but more often do-it-yourself structures (mostly shacks) erected by or for illegal aliens on the island of St. Maarten.

339. The following tables provide information on the housing quality in relation to, respectively, nationality and income.

Table 31. Nationality of inhabitants, by quality of dwelling, in the Netherlands Antilles

Nationality	Suitable	Poor	Very poor	Unknown	Total
Dutch	43 382	2 938	1 037	618	47 975
West European	1 461	228	83	34	1 806
North American	555	9	2	12	578
Central/South American	417	32	8	6	463
Caribbean	2 369	1 778	1 133	126	5 406
Other	460	26	3	6	495
Total	48 685	5 018	2 269	802	56 774

Table 32. Nationality of inhabitants, by quality of dwelling, in Curaçao

Nationality	Suitable	Poor	Very poor	Unknown	Total
Dutch	35 678	2 376	820	494	39 368
West European	548	58	7	4	617
North American	108	-	-	1	109
Central/South American	327	18	2	5	352
Caribbean	422	93	25	9	549
Other	175	12	3	2	27
Total	37 283	2 558	858	515	41 214

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 33. Nationality of inhabitants, by quality of dwelling, in St. Maarten

Nationality	Suitable	Poor	Very poor	Unknown	Total
West European	4 394	345	154	90	4 983
North American	862	157	71	29	1 119
Central/South American	313	8	2	10	333
Caribbean	42	11	6	-	59
Other	1 842	1 667	1 102	113	4 724
Unknown	269	14	-	4	287
Stateless	13	6	2	-	21
Total	7 735	2 208	1 337	246	11 526

Table 34. Income of household, by quality of dwelling, in the Netherlands Antilles

Household income	Suitable	Poor	Very poor	Unknown	Total
0-1000	10 362	2 423	1 297	232	14 314
1001-2000	10 763	1 547	667	201	13 178
2001-3000	8 805	665	198	125	9 793
3001-4000	5 950	250	65	76	6 341
4001-5000	3 933	94	14	41	4 082
5000+	7 810	72	21	98	8 001
Unknown	1 512	120	58	46	1 736
Total	49 135	5 171	2 320	819	57 445

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 35. Income of household, by quality of dwelling, in Curaçao

Household income	Suitable	Poor	Very poor	Unknown	Total
0-1000	8 365	1 396	552	153	10 466
1001-2000	7 978	624	187	136	8 925
2001-3000	6 610	270	58	72	7 010
3001-4000	4 414	118	27	43	4 602
4001-5000	3 014	54	7	24	3 099
5000+	5 837	36	7	59	5 939
Unknown	1 085	66	2	28	1 201
Total	37 303	2 564	860	515	41 242

Table 36. Income of household by quality of dwelling, in St. Maarten

Household income	Suitable	Poor	Very poor	Unknown	Total
0-1000	1 232	913	700	70	2 915
1001-2000	1 785	848	458	56	3 147
2001-3000	1 418	359	136	47	1 960
3001-4000	1 095	121	37	28	1 281
4001-5000	695	34	6	15	750
5000+	1 617	33	14	35	1 699
Unknown	316	47	35	12	410
Total	8 158	2 355	1 386	263	12 162

Source: Central Bureau for Statistics of the Netherlands Antilles.

340. On 4 and 5 September 1995 the island of St. Maarten was hit full strength, first by hurricane Luis and later by hurricane Marilyn. The damage was devastating and those two days will live in the memories of all those who experienced them. Seventy-five per cent of the houses and buildings on the island were heavily damaged or completely destroyed. The shanty towns were all totally destroyed. The islands of St. Eustatius and Saba suffered less severe damage than St. Maarten, though the damage caused to production and distribution facilities and offices was extensive.

341. At present the Government is deeply concerned, not solely about demographic issues, but also about the socio-economic and political aspects of illegal migration within the Netherlands Antilles. The large influx of undocumented immigrants has created unexpected pressure on economic, health, education, housing and welfare facilities. It has become difficult to meet this demand. The island governments, in cooperation with private enterprise, are therefore making serious efforts to improve and build houses in public housing and other projects.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

342. This part provides more specific information relating to articles 2 to 7 of the Convention. The information given here is intended to supplement and illustrate the contents of Part I. It also provides answers to the Committee's questions arising from its consideration of the previous reports.

A. Article 2

343. The principle of equality is the basis of our legal order, and is enshrined in article 3 of the Constitution of the Netherlands Antilles, which provides as follows: "All who are in the territory of the Netherlands Antilles have an equal right to protection of their person and goods". This

constitutional provision should be seen in conjunction with articles 2, 3 and 26 of the International Covenant on Civil and Political Rights and article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

344. The prohibition of discrimination on the grounds of race is contained in articles 143 (a), (b), (c); 153; 448 bis b juncto 95 of the Criminal Code of the Netherlands Antilles.

B. Article 3

345. See the report of the Netherlands with regard to the Kingdom's policy on apartheid.

C. Article 4

346. See the tenth periodic report of the Netherlands Antilles under the present Convention. To date no cases have been brought against anyone under the relevant provisions of the national legislation, in particular provisions of the Criminal Code.

D. Article 5

347. Paragraph (a). See in this context the previous reports. Furthermore, no cases were recorded by the district public prosecutors' offices based on discrimination involving article 3 of the Constitution of the Netherlands Antilles, or any of the relevant articles under the Criminal Code, during this reporting period.

348. Paragraphs (b), (c), (d). See previous reports.

349. Paragraph (e). The tasks of the Department of Labour and Social Affairs relevant to the Convention are: labour mediation and issues relating to the employment of foreign workers, insofar as these do not fall under the competence of the island communities; assessing applications for legal aid and the issue of documents authorizing such aid. The table below shows the number of applications made to the Department of Labour and Social Affairs in Curaçao in the period 1991-1994.

Table 37. Number of applications for legal aid

Case	1991	1992	1993	1994
Divorce	114	107	166	169
Labour dispute	123	88	115	93
Other civil case	60	59	86	57
Criminal case	313	307	319	404
Total	610	561	686	723

Source: Central Bureau for Statistics of the Netherlands Antilles.

350. The Department of Labour and Social Affairs is currently drawing up brochures providing information on labour law regulations. At present brochures are available in the various island communities on minimum wages, improper use of short labour contracts, legal aid and other relevant legislation. Brochures are currently being drawn up on the legal position of domestic staff, and on the regulations relating to employment and holidays. The local newspapers, moreover, regularly publish announcements on labour law-related topics. In order to increase accessibility, brochures are being produced in Papiamento and English. Use is also made in certain cases of interpreters (mostly for Chinese, Hindi and Urdu) in line with the Department's focus on the working conditions and position of foreign domestic servants.

351. No quantitative data is available on specific working conditions, therefore no pronouncements can be made on this subject.

352. A survey by the Central Bureau for Statistics of the Netherlands Antilles provides the following picture of migrant incomes.

353. The following tables show workers' incomes by population group. They show that migrants from the Caribbean region belong to the lowest income groups. The highest to lowest average incomes earned by migrants are earned (in that order) by workers from North America, Europe, Asia, Australia, Central and South America and the Caribbean.

Table 38. Working population, by gross monthly income (%)

Income	Total pop.	Migrants						Non-migrants		
		Total	N. Am.	S.+C. Am.	Carib.	Rest world	Europe	Total	Neth.	Aruba/ N. Ant.
0-500	10.5	15.8	6.2	21.8	17.1	8.6	10.8	8.9	4.1	9.2
501-1000	25.5	29.5	7.4	21.8	33.9	17.8	18.2	24.3	4.9	25.3
1001-2000	31.9	30.0	21.6	23.4	31.4	29.9	25.9	32.5	12.6	33.5
2001-3000	14.7	10.1	16.6	12.1	8.9	15.4	11.4	16.0	16.3	16.0
3001-4000	7.3	5.5	13.7	6.0	3.9	10.9	10.3	7.9	15.8	7.5
4001-5000	3.6	2.8	8.2	3.7	1.8	5.9	5.9	3.8	14.3	3.3
5001-6000	1.8	1.4	6.0	2.1	0.8	3.2	3.5	1.9	9.5	1.4
6001+	3.0	3.0	15.3	6.2	1.1	5.7	10.4	2.9	18.2	2.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	74 322	16 938	583	1 034	12 492	1 518	1 311	57 368	2 878	54 490

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 39. Workers' average monthly income

	Total pop.	Migrants						Non-migrants		
		Total	N. Am.	S.+C. Am.	Carib.	Rest world	Europe	Total	Neth.	Aruba/ N. Ant.
Average monthly income	1 905	1 721	4 154	2 111	1 366	2 514	3 032	1 958	4 332	1 837

Source: Central Bureau for Statistics of the Netherlands Antilles.

Table 40. Average household income, migrants and non-migrants

	Total pop.	Migrants						Non-migrants		
		Total	N. Am.	S.+C. Am.	Carib.	Rest world	Europe	Total	Neth.	Aruba/ N. Ant.
Average household income	2 730	2 432	5 075	2 964	1 929	4 225	3 726	2 820	5 570	2 670

Source: Central Bureau for Statistics of the Netherlands Antilles.

354. Compared with the rest of the population, migrants are more active in the labour market. The degree of their participation - that is the percentage of the total population group that forms part of the labour force - is 62 per cent (as opposed to 43 per cent in the case of non-migrants). One of the reasons for this is that a relatively large number of migrants belong to the economically active age category. The unemployment rate among migrants is also strikingly low: 13.2 per cent as opposed to 15.9 per cent among non-migrants.

Table 41. Degree of participation and unemployment among migrants (%)

	Total pop.	Migrants						Non-migrants		
		Total	N. Am.	S.+C. Am.	Carib.	Rest world	Europe	Total	Neth.	Aruba/ N. Ant.
Degree of participation	46.0	61.7	42.7	41.5	65.0	62.0	58.5	43.2	45.2	43.2
Unemployed	15.3	13.2	4.8	9.8	15.8	2.4	3.4	15.9	0.4	16.5

Source: Central Bureau for Statistics of the Netherlands Antilles.

355. This figure does vary per migrant group, ranging from 3.4 per cent among European migrants to 15.8 per cent among Caribbean migrants. The above figure 15.9 per cent is an average derived from 16.5 per cent unemployment among Antilleans and 0.4 per cent among Dutch nationals.

356. Young migrants join the labour market earlier than their non-migrant counterparts. The degree of participation for the 15- to 24-year-old age group is high (64.5 per cent) compared with other young people (47.4 per cent) in the same age category. This finding is consistent with low school attendance among young migrants. This group of young people leaves school much earlier, and enters employment or looks for work earlier. Unemployment among young migrants is lower (22.7 per cent) than among their non-migrant counterparts (30.4 per cent).

Table 42. Participation and unemployment among young people (%)

	Total pop.	Migrants						Non-migrants		
		Total	N. Am.	S.+C. Am.	Carib.	Rest world	Europe	Total	Neth.	Aruba/ N. Ant.
Participation	49.8	64.5	52.5	39.9	67.8	59.8	55.0	47.4	37.6	47.8
Unemployed	29.0	22.7	19.0	13.8	25.2	4.9	10.5	30.4	10.3	30.8

Source: Central Bureau for Statistics of the Netherlands Antilles.

357. With regard to migrant women, more specifically the category of foreign live-in domestics, various relevant judgements are included in the annexes to this document. They include cases of expulsion, unlawful seizure of passports, etc.

358. Requests to admit foreigners for a temporary stay or for a longer period are addressed to the Minister of Justice and submitted to the Lieutenant-Governor of the relevant island community. Assignment of the competence to admit foreigners to the local labour market is regulated by the Admission and Expulsion Ordinance and by the Admissions Decision. The competent authorities are the Minister of Justice and the Lieutenant-Governors. The policy of the Lieutenant-Governors of the island communities is not to issue permits to aliens to carry out work that could be done by Antilleans.

359. Various factors - predominantly economic - have caused the Netherlands Antilles to adopt a specific policy on employment and social affairs. The existing regulations and guidelines relating to the employment of foreigners are: the Admission and Expulsion Ordinance; the Admissions Decision; the ministerial decree of 11 November 1970; the Ordinance of 4 July 1946, establishing an employment office. A draft ordinance is currently in preparation, relating to manpower services, to replace the Ordinance of 4 July 1946, establishing an employment office. No changes are planned to the position of foreigners in the local labour market.

360. A committee has meanwhile been set up to carry out a complete review of the legislation on aliens, inter alia. It has been requested to focus particularly on certain points referred to in the Ordinance, such as the separation of residence permits from work permits, harmonization of the legislation on aliens with relevant international agreements and improving existing legal certainty.

361. A draft bill has been drawn up to tackle the problem of illegal aliens. It seeks to amend the Admission and Expulsion Ordinance in such a way that the penal sanction on the employment of illegal aliens will be a drastically increased fine or a custodial sentence. This measure is intended to protect the legal position of foreign workers in the Netherlands Antilles.

362. As regards existing sanctions or penalties resulting from failure to comply with the terms of employment pursuant to article 1615n to 1615x of the Civil Code of the Netherlands Antilles, the law does not distinguish between Antilleans and foreigners.

363. One specific possible consequence of the dismissal of a foreign worker might be that admission ipso jure will lapse or terminate, or that a residence permit (whether or not temporary) will be withdrawn by or on behalf of the Minister of Justice. In certain cases, the Lieutenant-Governor of the island community in which the alien resides may order his or her expulsion.

364. Article 10 of the Netherlands Antillean Constitution implicitly lays down the right of association and assembly. This right is restricted by the interests of public order, morality and public health. ILO Convention No. 87 on the freedom of association and the right to organize is applicable to the Netherlands Antilles. There are no legal bans on joining trade unions for any category of worker.

365. The Antillean legal system also recognizes the right to bargain collectively. Joint consultation between workers and employees is achieved at institutional level by means of the Socio-economic Council, a tripartite body which serves as a partner of the Government in legislative matters of a socio-economic nature, and a forum for employers' and workers' consultations on socio-economic issues.

366. With a view to collective bargaining, joint consultations are promoted by the Ordinance on the Recognition of Labour Unions and the Ordinance on Collective Labour Agreements. Pursuant to the Ordinance, the Government Mediator may, at the request of a labour union or any employer, hold a referendum in a firm to determine whether a labour union - and if so which labour union - has the approval of the majority of workers or category of workers of a particular firm. In case law, "majority" has been interpreted as a normal majority (at least one half of the workers or a certain category of workers in a firm). The employer is required by law to recognize this labour union and to consider it as his partner in collective bargaining. In the event that the Government Mediator refuses to hold a referendum, the labour union or employer who has requested the referendum may address the Minister of Labour and Social Affairs or apply to the courts.

367. Pursuant to the Ordinance on Collective Labour Agreements, a labour union must possess legal status in order to conclude collective labour agreements. The competence to conclude collective labour agreements must be mentioned in the statutes of the labour union or employers' organization. A collective labour agreement is only binding when it is in written form. The agreement expires after a maximum of five years, unless it has been extended. Under the terms of the Labour Dispute Ordinance the Government Mediator can play a facilitating role in collective bargaining procedures.

368. The Netherlands Antilles recognizes the right to housing as referred to in article 11 of the International Covenant on Economic, Social and Cultural Rights, which was ratified by the Netherlands on 11 December 1978. Protection of the right to privacy in this domain can be found in article 107 of the Constitution of the Netherlands Antilles, which states: "No residence shall be entered against the will of the occupant, unless by order of an agency authorized by federal ordinance to give such order, and with due observance of the formalities prescribed by federal ordinance".

369. Between September 1994 and February 1995, the Central Bureau for Statistics, in collaboration with the Census Office and the Street Naming Committee, executed a Housing Numbering Project combined with a mini-census on the island of St. Maarten. This was prompted by the following reasons:

(a) Lack of an adequate address database from which an accurate and reliable sample framework could be derived;

(b) A wish to establish a database from which to obtain demographic information on the population in St. Maarten;

(c) A desire to accumulate information on businesses;

(d) A need to update the various registers;

(e) Policy-making purposes;

(f) A need for a house numbering project and mini-census following the massive hurricane damage of 1995.

370. With regard to a general right to public health care, medical care, social security and social services, see the third periodic report of the Netherlands Antilles under articles 9, 10 and 12 of the International Covenant on Economic, Social and Cultural Rights report and the core document HR/CORE/1/Add.67.

371. As to education, equal opportunity is guaranteed by law in compulsory education. This law provides for a basic programme of school education for all children aged 6 to 15.

372. The first paragraph of article 140 of the Constitution of the Netherlands Antilles states that: "Education shall be the constant concern of the Government". Strictly speaking, it does not recognize an individual, directly applicable right to education. However, article 2 of the First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, by which the Netherlands Antilles is bound, states that: "No person shall be denied the right to education". The European Court of Human Rights has interpreted this to mean that everybody has the right to admission to existing schools and that everybody has the right to enjoy the fruits of education, i.e. the right to recognition by the Government of the results attained in consequence of it.

373. Private organizations have been established which provide a system of basic education for those persons who have not received or completed primary

education. The Ministry of Education provides guidance, assistance, etc. to these organizations by means of an official responsible for adult education.

374. The main difficulty encountered on one of the islands of the Netherlands Antilles in realizing the right to education is a lack of schools and classrooms to cope adequately with the influx of illegal migrants and their children. The problem is compounded by the fact that most of the said children speak either English, Haitian Creole or Spanish. Some groups are providing for special education. Besides the regular educational facilities, some private facilities have the approval of the local authorities, enabling the need for educational facilities for the children of undocumented migrants to be met to some extent.

375. In the context of rebuilding the island of St. Maarten after the hurricanes and in addition to other relevant projects, the government of the island community most affected by this problem of undocumented migrants plans to have six new schools built. Financial aid from the Netherlands would be provided in order to alleviate this shortage.

376. The degree of school participation - the percentage of young people of a certain age group in some form of daytime education - for the entire population of the Netherlands Antilles is 99 per cent of children between the ages of 6 and 15. In the case of Saba, St. Eustatius and Bonaire, the participation rate is 100 per cent. On Curaçao, 99.5 per cent attend school, while the situation on St. Maarten is less favourable than in the other island communities, i.e. 96.2 per cent. The census figures show that school participation among migrant children in the Netherlands Antilles is lower (93 per cent) than among the rest of the population. A comparison of the regions shows that school participation is particularly low (90.4 per cent) in the case of children born in the Caribbean region. Among children born in North and South America and Europe, the participation rate is almost 100 per cent.

Table 43. Total foreign population attending and not attending day school

	Total	At day school	Not at day school
Netherlands Antilles	24 650	3 390	21 260
Bonaire	849	159	690
Curaçao	6 624	1 234	5 390
St. Maarten	16 722	1 914	14 808
St. Eustatius	296	59	237
Saba	159	24	135

Source: Central Bureau for Statistics of the Netherlands Antilles.

377. The problem of absenteeism in education can also be looked at in another way. In absolute terms, there are 282 children between the ages of 6 and 15

in the Netherlands Antilles who do not attend school, of whom 60 per cent are of migrant origin. More specifically, they tend to be migrant children living on St. Maarten.

378. Young people between the ages of 15 and 20 in general have a lower rate of educational participation. The total figure for the Netherlands Antilles is 70.4 per cent. This reflects the general trend for educational participation to decline with increasing age. Young people subsequently leave education, either with or without educational qualifications, and then fall into the category of employed, job-seeking or non-active.

379. The children of migrants leave school much earlier than their peers, thus reducing the participation rate to 48.7 per cent for 15- to 20-year-olds (see paras. 349-363). If one looks at the total migrant population in the Netherlands Antilles, it is striking that only 11.8 per cent attend school, as compared with 30.0 per cent of non-migrants.

380. The following table shows illiteracy figures, comparing persons with Dutch nationality with aliens. Illiteracy among the Dutch is 4.8 per cent compared with 12.0 per cent among aliens.

Table 44. Illiteracy - Dutch nationals and aliens

	Total	Dutch nationals	Aliens
Age	6 175	3 823	2 350
0-14	-	-	-
15-29	993	462	531
30-44	1 847	792	1 053
45-59	1 182	729	453
60+	2 153	1 840	313

Source: Central Bureau for Statistics of the Netherlands Antilles.

381. The Minister of Education has presented to the Legislative Council a plan for the restructuring and renewal of education in the Netherlands Antilles. The reports "Step by Step to a Better Future" for primary education and the "Introduction of Fundamental Education" for secondary education lie at the basis of the new educational plans.

382. As regards levels of education, a survey was carried out of current forms of schooling. In general, there are no striking differences between migrants and non-migrants. However, if one uses an age-specific approach, it emerges that 32.7 per cent of migrants between 15 and 20 follow some form of higher secondary education (HAVO [senior general secondary education], VWO [pre-university education] or MBO [senior secondary vocational education]).

Conversely, young migrants prove to experience more difficulty in the first stage of education; 34.9 per cent of young migrants repeat at least one year of primary education while 26.4 per cent of young Antilleans repeat a year.

Table 45. Migrant and non-migrant schoolchildren, by level of education (%)

Level of education	Migrant	Non-migrant
Max. primary school	70.4	67.8
LBO	6.8	11.0
MAVO	10.9	10.5
VWO/HAVO/MBO	10.3	9.5
HBO/WO	1.6	1.2
Total	100.0	100.0
Abs. figure	(3 719)	(47 764)

Source: Central Bureau for Statistics of the Netherlands Antilles.

LBO = junior secondary vocational education
MAVO = junior general secondary education
VWO = pre-university education
HAVO = senior general secondary education
MBO = senior secondary vocational education
HBO = higher professional education
WO = university education

383. With regard to equal participation in cultural activities, see the core document and previous reports of the Netherlands Antilles under article 15 of the International Covenant on Economic, Social and Cultural Rights.

384. No distinction is made with regard to the right of access to any place or services which are intended for the general use of the public.

E. Article 6

385. Through the Kingdom of the Netherlands, the Netherlands Antilles recognizes the competence of the Committee to receive and consider communications from individuals under article 14 of this Convention.

F. Article 7

386. The Government of the Netherlands Antilles emphasizes the importance of the need for public awareness of the threat to peace posed by lack of tolerance between nations, between communities and between individuals.

387. The National Commission of UNESCO has acted as coordinator of events, combining messages and information to the media, schools and other institutions within the framework of "tolerance education" and aimed at raising public awareness of the importance of tolerance.

388. Within the Service for Cultural Affairs each of the island territories has at its disposal a section for interinsular and international relations, which is in charge of establishing interinsular and international contacts in the field of culture. Cultural contacts are also often established or maintained with authorities and groups from other countries through consular missions in the Netherlands Antilles. Furthermore, there are various bilateral treaties with countries in the region and elsewhere in the field of cultural, intellectual and friendly cooperation which also apply to the Netherlands Antilles.

389. All churches and societies and religious communities are afforded equal protection. Contributions from any public treasury, including contributions to their ministers and teachers, are, moreover, granted on an egalitarian basis and according to rules laid down by federal ordinance. Adherents of the various religious beliefs are entitled to enjoy the same rights as other individuals. Their public worship and religious services are subject to no other restrictions than those ordered by federal ordinance in the interests of public order, peace and morality.

List of annexes

1. Guidelines on Discrimination Cases for procurators-general and chief public prosecutors

2. Criminal Code provisions concerning discrimination

3. Constitution of Aruba (chap. 1)

4. Relevant articles of the Aruban Criminal Code

5. National order of 12 December 1995 No. 33

6. Comparison of two systems of payments for work over a 36-month period

7. Information (re) dismissal (four pages)

8. Civil cases in 1992: decision dated 8 May 1992, A.R. No.: 167/92

9. Civil cases in 1992: decision of 19 May 1992, judgement No. 127

10. Judgement of 3 January 1992 KG No. 403/91

11. Judgement of 22 September 1992 No. 246

12. Judgement in interlocutory injunction proceedings KG 308/1992

13. National order of 2 August 1994 No. 6